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ABSTRACT

Hearings were held in California, Illinois, Georgia, and Washington, D.C., to receive testimony concerning the Parental and Medical Leave Act of 1987, a bill intended to promote the economic security of many families by providing job-protected leave for parents upon the birth, adoption, or serious illness of a child, and temporary medical leave when a child's serious illness prevents a parent from working. Testimony concerned: (1) support, difficulties, and barriers encountered by employed mothers and fathers of adopted or seriously ill newborn and older children in arranging leave time from work to care for their children; (2) briefly, the effect of the ability to comply with a medical treatment program and schedule on long-term survival rates of seriously ill children; (3) California State and community personnel policies and legislative initiatives similar to the proposed Act; (4) Oregon's parental leave legislation; (5) the General Accounting Office's estimate of the costs of the Act; (6) the Department of Justice's objections to the Act and legal scholars' counterarguments; and, very extensively, (7) viewpoints and arguments of representatives of businesses and organizations, such as the National School Boards Association and the Institute for Women's Policy Research, opposing or supporting the Act, in particular regarding the issue of federally mandating the Act's provisions. (RH)

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S. Hrg. 100–438, Pt. 2

PARENTAL AND MEDICAL LEAVE ACT OF 1987

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 249

TO GRANT EMPLOYEES PARENTAL AND TEMPORARY MEDICAL LEAVE UNDER CERTAIN CIRCUMSTANCES AND FOR OTHER PURPOSES

JULY 20, 1987, LOS ANGELES, CA
SEPTEMBER 14, 1987, CHICAGO, IL
OCTOBER 13, 1987, ATLANTA, GA
OCTOBER 29, 1987, WASHINGTON, DC

PART 2

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PARENTAL AND MEDICAL LEAVE ACT OF 1987

MONDAY, JULY 20, 1987

U.S. SENATE,
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS, AND ALCOHOLISM,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Los Angeles, CA.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 350, City Hall, 200 North Spring Street, Los Angeles, California, Senator Christopher J. Dodd (chairman of the subcommittee) presiding.

Present: Senator Christopher J. Dodd.

OPENING STATEMENT OF SENATOR DODD

Senator DODD. I am pleased to call to order this hearing in Los Angeles. This is the second in a series of regional hearings on parental leave which I am holding across the country as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism. The subcommittee started these hearings in Boston last month. And we will travel to Chicago and Atlanta before we are through to hear from parents, professionals, business opponents, supporters, and community groups.

These hearings are focused on legislation I view as both pro-family and pro-business. The Parental and Medical Leave Act of 1987 (S. 249) I reintroduced in the Senate on January 6, 1987, would promote the economic security of families by providing for job-protected leave for parents upon the birth, adoption, or serious illness of a child, and temporary medical leave when a serious illness prevents a parent from working.

Because such leave would be unpaid, I believe it will not add to the deficit nor to the economic burdens carried by employers. Yet several national business organizations, most notably the U.S. Chamber of Commerce and the National Association of Manufacturers would disagree. Right before I held the first senate hearing on this issue, the U.S. Chamber announced that unpaid parental leave would cost employers $16.2 billion. Several weeks after the hearing, they wrote me and stated that the $16.2 billion figure was just a worst case scenario. Rather, they now estimated that unpaid parental leave would cost in the neighborhood of $2.6 billion, or some $14 billion less.

Recognizing the importance of getting an objective, independent assessment of the possible costs and benefits to business of unpaid parental leave, Senator Arlen Specter and I requested a study by the General Accounting Office (GAO). On April 23rd, GAO testified before my subcommittee that any costs associated with unpaid leave would be significantly less than the $2.6 billion figure now used by the U.S. Chamber.

When we conclude these regional hearings this fall, the General Accounting Office will be ready, I am told, to report back to the subcommittee with a cost-benefit estimate on their own. And we will certainly be happy to provide all the witnesses as well as those interested families a copy of that report.

In light of the special problems often faced by small employers, businesses with fewer than 15 employees will be exempted from the provisions of this legislation as presently drafted. According to the General Accounting Office, that means that 80 percent of the firms in this country would be exempted. Keep in mind, however, that only 25 percent of the workforce is employed by businesses with fewer than 15 workers. Therefore, three out of every four American workers would be eligible for job-protected parental leave under this legislation.

It is important that policy makers and members of the public hear all sides of the story, and not just the arguments of one particular interest group. And for that reason, we will hear this morning witnesses representing all viewpoints on this subject. But we must bear in mind that the most important group affected by this legislation will not be testifying here in Los Angeles this morning; namely, the one out of every four Americans who are children under the age of 18.

The time has come, I believe, when we can no longer ignore the changing demographics of our work force and its effect on children and families. Today, close to half of all mothers with infants under the age of one are working outside of the home. That figure has doubled since 1970, and shows no sign of abating. In fact, 85 percent of all women working outside the home are likely to become pregnant at some point during their careers. I am certain most everyone in this room this morning know of at least one new mother or father who is trying to juggle taking care of a new infant with getting straight back to their jobs.

The reasons for this are quite simple. Women and men are in the workforce out of economic necessity. Two out of every three women working outside of the home today are either the sole providers for their children or who have husbands who earn less than $15,000 a year. And given that two out of every three children added to the poverty rolls since 1987, come from families in which one parent is working full-time, year-round, it is not too difficult to see the importance of families having two wager-earners. In short, the wages of both mothers and fathers today are critical to the support of their families.

It is important for us this morning to examine closely the question of which workers are most likely to benefit from an unpaid parental leave policy. Some of the philosophical opponents of this legislation have dubbed it a yuppie proposal because it only provides for unpaid leave. This morning we will hear testimony on this issue from parents at all ends of the pay scale.

We will also hear from the parents of children who have suffered injury or serious illness, requiring hospitalization and extended period of recovery. They will delineate for us the importance in their eyes of knowing once their child's medical crisis is resolved, that they will have a job to return to.

Ronald McDonald houses across the country have been strongly supported by local and nationwide businesses in their efforts to provide shelter at a minimal cost for parents who must travel far from home to procure appropriate medical care for a child's acute illness or injury. Under the legislation, the same businesses that support Ronald McDonald houses would also provide job guarantees for those employees with sick children who must seek shelter there.

In closing, it is appropriate that this subcommittee meet here in Los Angeles. As several of our distinguished witnesses will testify this morning, California was one of the very first states to enact job protection for working women with infants. Earlier this year, the supreme court backed up that right for women in this state and several other states with maternity disability statutes. This morning's hearing will focus on whether the same job protection should be extended to all parents upon the birth, adoption, or serious illness of a child.

Our first panel of witnesses this morning is a distinguished one, indeed. It includes Richard and Jeremie Dreyfuss, from Los Angeles, California. Dr. Stuart Siegel, who is head of the Division of Hematology and Oncology at Children's Hospital in Los Angeles. He will be accompanied, I might add, by parents Lawrence Lenci and Janet Kiehl, and lastly Donna Salisbury. I am sorry, just the first panel, please. First, I would ask Richard Dreyfuss and Dr. Siegel to approach our witness table here, if they would.

We will deal with you first, if we can, Mr. Dreyfuss, and then we will move to the next group. We welcome you here this morning and appreciate you taking time to come to this hearing.

It may be a little crowded up there, but we will try and move along. I just say as part of an introduction, that the Dreyfusses—of course Mr. Dreyfuss is well known to all of us as a very distinguished American actor—but he is here in his capacity this morning as a father of a child who has been through some difficulties. He has a young son Ben, who was born with a significant eye problem. We also welcome you, Jeremie, as the mother of Ben and will be delighted to receive your testimony and then have some questions for you, in any order you care to proceed.

STATEMENT OF RICHARD DREYFUSS

Mr. DREYFUSS. Thank you, Senator Dodd.

I am very happy to be here today, not as an actor, but as a father, and as an advocate for children.

Thirteen months ago my son Ben was born three weeks early. We had no reason at that time to expect that there were going to be any problems. Ben was born with a rare eye disorder known as Peter's Anomaly, a disorder that affects only one in ten million. We soon discovered that as serious as his condition was, had he gone to full term his eye could have burst and he probably would have died.

When Ben was born we realized immediately that he needed specialized treatment and that we were very lucky to find that treatment as close as the University of California at San Diego. There was no question in our minds that we would go anywhere to get Ben the treatment that he needed, so we uprooted the family, rushed him to San Diego, rented a home and began a very difficult and unpredictable course of treatment which is still ongoing.

Within his first week of life Ben had the first of what has now been 23 surgeries, a traumatic experience for Ben, as well as for us, certainly, and tomorrow morning he undergoes his 24th. Looking at Ben fighting through every procedure, we knew that we had to give him as much support as we could. Now, in spite of how emotionally stressful the situation was, we were able to be with Ben because of our rare financial advantages. Not all parents have the financial capability or the job security that would allow them to uproot their families to be with their children as needed.

As you have heard from parents around the country, our family situation was not unique. This is a problem which faces hundreds of parents each day. Through the course of Ben's treatment, we have come to know the pain and fears of so many parents who are not as fortunate as we are. Our personal experience compels me to speak out in support of this bill, but logic and compassion seems to be working hand in hand here.

Thank you.

Senator Dodd. Thank you very much.

Mrs. Dreyfuss.

STATEMENT OF JEREMIE DREYFUSS

Mrs. Dreyfuss. Senator, I am Jeremie Dreyfuss. I want to start by telling you a little bit more about Ben's story. As Richard has told you, we went to San Diego to the only doctor in the country, Dr. Stuart Brown, who does the kind of operations, who was recommended to perform cornea transplants on newborns. We moved there, rented a house for three months and took Ben to the hospital for treatment seven days a week.

Within his first three months, Ben had undergone 23 operations which were two corneal transplants and a series of particularly painful procedures called cryosurgery, a treatment involving dry ice to address the additional problem of his congenital glaucoma. His condition was so severe that it resulted in damage to his optic nerve.

Three weeks ago, Ben had a very high fever and it caused him to stop breathing for two minutes and he spent a week in intensive care here at Cedar Sinai. What Ben needed mostly was for us to be there while he's been going through all these things.

I know you have heard much about the research and the personal experiences which point to the importance of parental support during at-risk treatments for children. But there is another, very practical reason for wanting to assure that parents can be with their seriously ill children. The reality of hospital staffing is that, outside of the specific treatment times, our children are virtually left alone, alone with their pain, alone to cry, alone to become even more fearful. This is not because the nursing and other medical staff do not care. There were, and continue to be wonderful, but they have many children and many needs. They cannot be there for the ongoing nurturing and support young children need at this time.

As difficult as our situation was, we were lucky. We were able to move and to afford help, unlike most families in the United States today, we are not dependent on two incomes. I do not have to work. When we both couldn't be there, at least I was always able to be there with Ben.

What do other parents do when faced with such difficult choices? For children with Peter's Anomaly, lack of immediate and intensive treatment means certain blindness. Dr. Brown, Ben's surgeon, has told me over and over again about families who cannot bring their children to him because they lack the resources and the job security necessary to travel to San Diego.

The anguish we parents all experience in the fact of our children's problems is compounded considerably by the fear of putting one's job at risk. There is nothing anyone can do to lessen our pain, but something must be done to make sure that no parent has to make a choice between their job and their child's well being.

Senator, if your bill were law today, I wouldn't hear stories from Ben's doctor about parents crying on the phone because they cannot leave their jobs to get the treatment their children need. I wouldn't see babies left alone in hospital rooms crying. I would know that children would have access to the love and support, as well as the medical treatment they need.

I often wonder what would have happened to Ben if our circumstances had been different. I am grateful that we did not have to make choices between Ben's future and our livelihood; no one should have to in America.

Richard and I congratulate you and hope that Congress recognizes the urgent need for this legislation. I cannot believe that a father whose child is dying of cancer could be fired for taking time off to be with his child. In a country as great as the United States of America, we cannot forget our children, they are our greatest resource and our future.

Thank you.

Senator Dodd. Thank you, Jeremie, very much. It was a very compelling testimony from both of you.

We are going to hear from two other parents, right now, and if you can, just step up and share that microphone there. I apologize for the logistics of tables and so forth.

As I mentioned at the outset, this is Lawrence Lenci and Janet Kiehl. Lawrence is the father of baby son Christopher; I want to commend you on such a fine name for a child. And Janet is the mother of an 18-year-old son and a 12-year-old daughter. We welcome you here this morning and will be glad to hear what you have to say, Mr. Lenci.

STATEMENT OF LAWRENCE LENCI

Mr. Lenci. Thank you, sir. I appreciate the opportunity you have given me to speak here today.

My name is Lawrence Lenci, and I live in South San Gabriel, California. My wife, Jo Ann, and my son, Christopher are here with us. They are sitting over at the end.

My wife has severe diabetes and Jo Ann has had diabetes since she was 13. She developed severe toxemia during her pregnancy. She had an emergency C section at eight months. Christopher was immediately put in the NICU. His aortic valve hadn't closed and he was having severe respiratory problems. Medicines did correct that problem, luckily. The doctor told us he may not live. We had to stay at the hospital, my work said they understood, but the hospital wanted me there in case there were any problems. My wife has serious blood sugar levels from being diabetic, which were very abnormal at the time.

At the time, I was working as a security guard for Guard Systems, Incorporated, which is in Monterey Park. When I called my supervisor to let them know what the problem was, they had said no problem. Stay there as long as you need, just call in every day and make sure we are kept advised of what's going on. I was paid by the hour, if I didn't work, I didn't get paid.

I didn't sleep at all the first two nights. My son was born on February 10th, I slept in the back of my pickup truck in the parking lot of the hospital in order to be close in case anything did happen. Luckily, we don't live far from the hospital, but I decided to be right there, the nurses knew where I was if anything happened.

After just one week, the doctor told us that we couldn't have any more children. My wife and I did want to have a large family and now we can't because it is too much of a chance of this happening to another child and I may possibly lose my wife if this happens again.

Christopher was on a ventilator for two and a half weeks, he had a feeding tube in his stomach and a tube to his lungs. His feet were full of scars from all the blood tests that had to be done to check his levels. We couldn't even hold him, and it was just so bad having him in an isolette not being able to hold him and cuddle with him and everything. The pain of not knowing whether he was going to live or die was just almost too much. The stress caused my asthma to get out of control and I almost had to hospitalize myself. My wife had to see a heart specialist because the stress was getting too much for us.

I called my dispatcher every day and I would tell him I wouldn't be in. After two weeks, I went back to work because I was afraid I would lose my job. Whenever I wasn't working, I was at the hospital. Christopher was in critical condition in an oxygen hood, a plastic dome that goes over his head. A few times I was called to the hospital from my work for a spinal tap and other various tests. Even during an emergency, I never left my post at work. I was a security guard, and we couldn't leave unless we had relief brought to us to cover the post, or a supervisor to come by. I never left unless I was relieved, no matter how bad the emergency because I couldn't lose my job because I had to pay for everything.

My son has apnea brainycardia which means he is at very high risk for Sudden Infant Death Syndrome. His breathing is very shallow and his heart rate is very slow. He has to be on an apnea monitor all the time. He will have to be on it for at least a year. It's too soon to tell if his eyesight or learning capabilities have been damaged from being on oxygen too long. They don't know if—he has a small eye problem, they don't know if it's going to correct itself or if he is going to have any learning disabilities from that.

Before we could take him home, my wife and I had to learn CPR. We were able to bring him home only after he was in ICU for a month. I took three or four days off after we brought him home because my wife was very weak and the apnea monitor was going off constantly. We couldn't—we got very little sleep. At that, we were always listening for the monitor to go off or for him to make any sound that was a sign of distress or anything. It was scary.

I called every day to work, even when they told me I could have three or four days off, they said they understood. They said to take as much time as I needed. When I went back to work I had to take a day off to take my wife to the doctor because she was too weak to drive, from the C section. She had to rest and take care of herself.

I was working a new post and my supervisors were very happy with my work and I thought everything was fine. Then on April 17th, I went into the main office to pick up my check and my supervisor came up to me and said, I need to speak to you in my office. He told me I was a good employee, he understood that I had problems, but they had to let me go because of the time I had missed from work to be with my son. They told me I can come back to work after all the problems are resolved, but we don't know if my son is going to be on a monitor for over a year or what, we don't know how long it is going to take. I couldn't believe it. What was I to do? My son Christopher was on a monitor.

I was angry, but I was more hurt than anything else, because these people were very polite in the beginning and then when I needed the time to be with my son, it was understood that I could go ahead and do it, but then afterwards they said, I am sorry, we have to let you go because you missed work.

I am unemployed now, on AFCE, we are on food stamps, I participate in the work incentives program. It is very embarrassing to be on welfare. I have always worked hard and it's very hard when you go into a supermarket and somebody says, oh, you don't have cash, you have to pay for this on food stamps. It is very hard.

I am trying to get a job right now and I will probably have to work two jobs just to make ends meet later on.

But if I had to do this all over again, I would do it because my son and my wife are more important than anything else.

Thank you.

Senator DODD. Thank you.

Ms. Kiehl.

STATEMENT OF JANET KIEHL

Mrs. KIEHL. First of all, I would like to thank you for giving me this opportunity to testify.

My name is Janet Kiehl and I live in Alhambra, California, where I am a single parent with my son, Richard, 18; and my daughter, Becky, age 12. Although my daughter has Downs Syndrome, she is a very active member of our family, and she enjoys her school very much.

At birth, we found out that Becky had an endocardial cushion defect, this means she has three holes between the chambers of her heart. As a result of this condition, she has pulmonary hypertension and is cyonotic, which means that she is always blue from the lack of oxygen in her blood. There is no medication nor is there any surgery that can help this condition. Shortly after birth, she had surgery for a stomach blockage which is common for many children with Downs Syndrome. Although the surgery was successful, it caused Becky to have a chronic ulcer.

The combination of these two problems is often too much for Becky's young body to take. When she was born, the doctors only gave her a 10 percent chance of living through her first year, but she's been a real fighter, she has made it through numerous hospitalizations over the past 12 years.

As you have heard from parents, doctors, and other professionals, the stress of having a disabled child is overwhelming. This stress is compounded for a single parent like me, who is the sole income earner for the family, and I hope that my story will help you understand how crucial parental leave is for parents like me.6

In December 1984, I was employed as a Workers' Compensation claims examiner for Fred S. James Company. It's a brokerage firm in Los Angeles. One day Becky's school called me at work. Senator, all working parents dread a call from school personnel, but when I was called that day, it was not to be told that Becky had the flu, but that she had been rushed to the hospital and was fighting for her life. She had stopped breathing. The doctors didn't think that she was going to make it and she was extremely weak. As any parent would do, I camped out at the hospital while trying to take care of my other child. I used all ten days of my sick time.

The day Becky was discharged, the personnel manager called me and told me that if I didn't return to work in two days I would be put on an unpaid status subject to probation and termination. I didn't know what to do. Becky was too weak to return to school and she needed further medical treatment at home. Of course, I couldn't afford a nurse.

I taught my mother how to administer CPR and oxygen, so she could take care of Becky. On my first day back to work I received a call from my mother, Becky was taken to the emergency room. She had quit breathing again. My mother was unable, understandably, to cope with the stress of this situation and responsibility. I was convinced that I needed more time to take off to take care of her myself. She is my daughter. Even if it meant losing my job, my daughter was more important to me.

The very next day, the personnel manager called me and she wanted me to come into the office to have a meeting to discuss my lost time from work. I told her that, of course, I would have to bring Becky in her wheelchair and her oxygen tank, and she decided to have a conference call instead. They gave me the option of quitting or taking a 30-day leave of absence without pay. I had to return by the end of those 30 days, or I would be fired. I also had to pay them to keep my own insurance active and I had to borrow money that month to survive. Becky was very weak. She was on oxygen constantly and needed other medication. I was terrified about what would happen if she was not strong enough to return to school after that 30-day period. I spent at least five hours a day on the phone calling every agency I could think of to help me find some nursing care for her. There was no luck. My employer sent me a letter stating that they hoped I could return to work as soon as possible, before the 30 days was up, and I had to call the personnel manager every couple of days to tell them how my search for nursing care was coming along. The pressure was unbelievable. I can't describe the anguish that I felt.

I had to get back to work, not only to pay rent and food bills, but also to pay Becky's doctor bills, since my employer had not given me insurance coverage for her, because of her pre-existing condition. I knew if I did not get back to work, I would have to go on welfare.

Just before the 30 days were up, Becky's teacher and the school psychologist found a placement for her in a school for orthopedically handicapped children, which was 30 miles from our house. The school was not academically appropriate for her because the classes were way above her level. However, there was a nurse on duty and oxygen was available and the school was able to meet her need. Becky was still very weak, but the school officials knew that I needed this placement in order financially survive. I signed a waiver to release the school of responsibility, so I could go back to work.

On days when Becky was even too weak to go to this school, I had to keep my 16-year-old son out of school to take care of her.

Senator, this was the most horrible period of my life. If I hadn't found this school for Becky, I would have had the option of going on welfare or institutionalizing my daughter, which one state counselor had recommended for me to do. Or I could have given her up into a foster home. I didn't want to break up my family. I don't think any parent should be put in this position.

I know that thousands of parents who have children with disabilities, live in fear of losing their jobs when their children are seriously ill, and I urge you to do everything in your power to see that this bill is passed as soon as possible.

Thank you.

Senator DODD. Thank you very much.

First of all, let me tell you, this is not an easy thing for any of you, what you have done here. It is not easy for the Dreyfusses to come and talk about an operation that will take place tomorrow, or for either of you to speak about Christopher and Becky. But let me tell you, you are doing an awful lot of good by being here and I want you to know that.

We will hear from Dr. Siegel in a minute. With all due respect to professional people who contribute significantly to testimony and shed an awful lot of light on these matters—I am sure Dr. Siegel and others would echo what I am about to say—no one is as compelling or as important as the story that the American people can relate to. And you are not alone in this. You are not isolated cases, unfortunately. I wish it were so, we could maybe deal with a few isolated cases. But the fact of the matter is, there are thousands upon thousands of people across this country who are confronted with the same kinds of problems.

Your being here makes it a lot easier for others to know that someone is speaking for them in terms that they can understand. So I want you to know on my behalf, and if my colleagues were here they would say the same thing, we deeply appreciate your willingness to come forward and to be here with us this morning. I really mean that.

I have just a couple of questions. Dr. Siegel, why don't we hear from you briefly on this as well, and then just have a couple of questions for you.

STATEMENT OF DR. STUART SIEGEL, HEAD OF DIVISION OF HEMATOLOGY AND ONCOLOGY, CHILDREN'S HOSPITAL, LOS ANGELES, CA

Dr. **Siegel**. Thank you, Senator Dodd.

I'm here as a physician treating a large number of children with chronic disease, but I hope also to be able to express some of the concerns and frustrations of many of those patients that I have come in contact with.

Considerable progress has been made in the past three decades in the treatment of the major serious and life-threatening illnesses of children. Survival has dramatically improved for children with the Number One killer disease, cancer, as well as for severe congenital heart disease, cystic fibrosis, crippling birth defects, end-stage kidney disease and other chronic illnesses. This progress has been made because of greater understanding of the nature and causes of these diseases, as well as the development of sophisticated, but at the same time, often intense therapeutic programs.

The result of these successful efforts to improve the survival of these children has been to put a greater burden on the medical care system to provide more complex treatments and at the same time a similar burden on families to provide the psychological support and practical assistance to the child during the course of their treatment. This potentially life-saving treatment requires many visits to the hospital, either as an inpatient or as an outpatient to receive the treatments that themselves can produce significant side effects for a period of time. In order for the child to receive these treatments in an optimal manner, it is necessary for parents to be responsible for transporting their children more frequently to the hospital or treatment center, to be available to the child at home in order to monitor their condition as we have heard today, and even at times to administer some of the therapy.

Numerous studies have clearly demonstrated that children who are able to comply with the treatment program and schedule that provides optimal care and who are able to gain ready access to the treatment center for interval problems, have a much higher rate of long-term survival than those with poor compliance no matter what the cause. Thus, the availability of family members to provide this support and practical assistance, particularly during the first few weeks of treatment, may be crucial to the chances of the child obtaining the complete benefit of the treatment and ultimately achieving cure of their disease.

Nowhere is this situation more evident than in the treatment of childhood cancer, the number one killer of children aside from accidents. The overall cure rate for childhood cancer has now increased from 10 percent twenty years ago to over 50 percent of the children diagnosed at this time, but that cure can only be achieved with intensive and complex treatment programs that result in the child having to make frequent visits to the hospital for therapy and treatment complications, particularly during the first few weeks and months after diagnosis.

Furthermore, it is this initial period of therapy that appears to be most crucial to the child's chances for survival. Failure to comply with the full therapeutic regimen clearly results in a lower survival rate for most forms of childhood cancer. The psychological support of the family, especially parents for children, is likewise most needed for the child at this time.

Currently, more and more of the treatment for these diseases is being carried on an outpatient basis with the child living at home, coming to the hospital periodically for specific treatments as well as tests to monitor the state of their disease. Such visits require family members to transport their children, as mentioned before, sometimes every day for a week in a row, to remain with them for hours during a day that treatment is being given, and then to monitor them at home for side effects of that treatment, or at residence facilities close to the hospital.

In some cases, the treatment is actually delivered with the assistance of the parents at home, placing an even greater burden on their time and energies. All of these factors result in parents of such children having to forego their work responsibilities frequently and at times on an unpredictable schedule. At the same time there is a significant economic trade-off produced by the tremendous reduction of the cost of the child's medical care by shifting treatment out of the hospital inpatient setting.

In our experience of caring for over 2,000 children with cancer and other serious blood diseases, we have encountered numerous instances where parents had to choose between bringing their child into the hospital for much needed medical treatment and evaluation versus losing their jobs. And you have heard some instances of that today. In almost all cases, the employers were aware of the nature and severity of the illness that the parent was dealing with in their child, but nevertheless, the parent was still faced with this terrible choice. This, I am sure you will agree is a real lose-lose situation.

As physicians battling these life-threatening diseases, we know that the failure of a child to be able to receive treatment that can be life saving in the most optimal way, will result in the same outcome as if that treatment was never available for that child. Legislation that would avoid placing parents in the most painful position of choosing between their livelihood and that of their family versus appropriate therapy for their ill child, would certainly go a long way to turning a lose-lose situation into a win-win situation.

Senator DODD. Thank you very much, Doctor.

Let me just ask a few questions. First of all, to Mrs. Kiehl and Mr. Lenci. What were the reasons, why do you think that your employers refused to at least give you some sort of guarantee of job? I presume in both cases, based on what you said, they were aware of your situation in your home; is that the case?

What reasons did they give, was there some other argument they raised that would cause them to place your job in jeopardy, in your case to lose it entirely?

Ms. **Kiehl**. Just that that was their policies and procedures and they wanted to keep a continuous work flow.

Senator **Dodd**. How big an office did you work in?

Ms. **Kiehl**. At least a hundred employees.

Senator **Dodd**. Six hundred.

Ms. **Kiehl**. One hundred.

Senator **Dodd**. How about in your case, Mr. Lenci?

Mr. **Lenci**. There's approximately three to four hundred employees employed by Guard Systems. We were short on guards and they needed guards to cover the different posts and they said they needed somebody that could be there. They thought the jobs were more important than the families.

Senator **Dodd**. Your work record, you had had no difficulty with your employer before?

Mr. **Lenci**. Not at all.

Senator **Dodd**. Dr. Siegel, you head up the Ronald McDonald houses here in Los Angeles, you heard me mention them. I always find it somewhat ironic that good businesses who write out substantial checks to support those Ronald McDonald houses across the country, and we thank them for that because it does provide relief to families in your sort of situation. Mr. and Mrs. Dreyfuss, I think I read you rented a house when you were down in San Diego with Ben, but other families that couldn't afford to do that. So, the Ronald McDonald house is a terrific idea or concept. It is somewhat ironic that the very same business that would write out the check to support the Ronald McDonald house—their own employees would not be able to take advantage of that particular facility without losing their jobs.

What reaction do you get from the business community that supports the Ronald McDonald houses, for instance, in Los Angeles, with regard to a concept of job security during the illness or birth of a child?

Dr. **Siegel**. Well, Senator, I am not here representing the Ronald McDonald House, but I have not really had any discussions with those businesses or that specific business or any particular business. What I have had is discussions with families who have been in this situation of dealing with various employers, and many of the times the response that they get from these employers is that the employer's business is suffering and they therefore need to have someone on hand and if they can't depend on the employee to be available, they have no choice. This is the reason that many parents tell me that their employers give them and that's why I think it would be very helpful for there to be legislation that would allow this conflict to be resolved in a way that would not put the burden on the family.

Senator **Dodd**. Mr. Dreyfuss and Mrs. Dreyfuss, you heard Dr. Siegel talk about the importance of parental involvement in terms of the recovery and treatment of a child. You have been through that already in part. I wonder if you have any comments on that at all, just in terms of your own experience and your conversations with your own doctors in San Diego?

Ms. **Dreyfuss**. In San Diego they have allowed us to be in the recovery room with Ben every time when he comes out of anesthesia, they made an exception for all the children going through eye surgeries that the parents could be there. I think it really means a lot to Ben that we have been able to be there and he is not left alone with strangers.

Senator **Dodd**. Is that recommended by the physicians, is it something they allow you to do or something they suggest be a part of it, as well?

Mrs. **Dreyfuss**. It is recommended by the physicians.

Mr. **Dreyfuss**. At Cedar Sinai the nursing staff in ICU highly recommend the parents are there as much as possible because it's obviously helpful to the children.

Senator **Dodd**. I can't resist asking, Mr. Lenci and Ms. Kiehl, do you consider yourself yuppies?

Ms. **Lenci**. Not particularly, no.

Senator **Dodd**. It's one of the criticisms we get, that this somehow is yuppie legislation. You don't strike me—I am not quite sure what one is, but I guess it is a little bit like pornography—you only recognize if if you see it. You don't strike me as being yuppies in your particular situation.

Dr. Siegel, you talked about children who are suffering from cancer and the particularly important role that parents play in treatment. It is not limited to that, obviously. Would you care to comment further, you talked about cancer particularly, but I presume it goes beyond that.

Dr. **Siegel**. Oh, it definitely does. I think that the key here is the fact that the child depends on the parent both for their psychological as well as their practical support most times. When they are diagnosed with a serious illness, I think all of us can appreciate the fact that this is the crucial time when that parental support can mean the difference between being able to come out of the experience psychologically whole, not just for the short term, but in the long term, versus coming out psychologically crippled, and I think we would also all agree that it might be great that the medicine that we as physician give might cure a disease, but if a child comes out of that experience psychologically disturbed or psychologically destroyed, we have not accomplished everything that we want to accomplish, so that the parent's ability to be with that child, to keep the family intact, to avoid other problems that can cause tremendous disruption of the family at this time, can't be over emphasized. It is absolute crucial.

Senator **Dodd**. Listening to the Dreyfusses and Larry Lenci and Ms. Kiehl, this is obviously compelling testimony. The tendency is to see businesses in this case as the bad guys because they fail to recognize this stressful situation in particular that the Lencis and Ms. Kiehl are in. What efforts are made by people like yourself and others in a community like this? My view would be that if the Chamber of Commerce in Los Angeles were aware of the kind of stories we are seeing here, they might have a different viewpoint on a bill like this than the attitude they presently have. Is there any kind of an educational effort within the community to make business aware of the problems that these families are under in very real terms? What about educational efforts from a medical perspective of how important it is for a child to recover? And what about all of those other issues that go beyond whether or not you understand the economic stress that people are under?

Dr. **Siegel**. I believe the American Cancer Society has had some educational programs to educate the public, including business, about some of the problems that exist, but I would have to say, Senator, that probably those efforts have not been as great as they should be and I think inferred in your comment is something that I completely agree with. Education of the people concerned as to the real issues, as to what is really going on, could go a long way to help people understand the need for this sort of thing. So I think you are right on target with that comment.

Mr. **Dreyfuss**. If I may, I think it is important for hearings like this to advertise the fact that there are successful large American companies who have parental leave programs and who have had them for many years, and when Chambers of Commerce across the country can hear and understand that people of their own back and endorse programs such as this, it is more persuasive than almost anything else.

Senator **Dodd**. We have some examples of that that will be around a little later this morning with Los Angeles area businesses that have had parental leave programs. They will tell us how good it is for their own businesses, how much more productive they are, how much more competitive they are. I mention to you personally, people like IBM have had child care programs for years, industry wide. The largest phone company—the phone company in Connecticut has had a parental leave policy for over 12 years and it has worked tremendously well for them.

The irony is that those witnesses have less credibility—don't ask me to explain this—but have less credibility than the witness who comes forward and talks about what it would likely be like were they to adopt a parental leave policy. Their testimony is given more weight than the testimony of a person who's had a business that has adopted a parental leave or child care policy, that's the irony of all this. But nonetheless, we keep bringing them forward because the importance I try to stress is that this is a pro-business and pro-family approach. We shouldn't be in the position of pitting the family against the employer. It doesn't have to be that way at all. There ought to be harmony with this.

I was interested to note the size of the employer. I don't know of a single firm, a very small firm with only a handful of people, where people know each other, where they wouldn't do something to help an employee out. It's when you get into larger operations where they don't know you, where you are just a person who works there and they have their rules and regulations where there are problems. I don't know a single corporate executive that would allow his secretary to lose her job in a situation like you were in, Ms. Kiehl, because he knows her, he cares about her. It's when that individual lacks an identity other than being an employee, that you find the kind of situations you are in. At least that has been my experience over the years.

Where people know each other and they understand what is going on, they come up with creative ways of dealing with these situations. And I wouldn't be bothering with this bill if that was the situation. But when you've only got 2,000 employers out of 6 million in this country that even do anything on child care alone, and a very low number out of 6 million employers doing anything on parental leave, then, frankly, I don't think we can wait much longer. Because the failure to act is putting too much strain on families and their children.

At any rate, I thank all of you for being here this morning. You have been tremendously helpful. Again, I want to emphasize, particularly in the case of you, Mr. Lenci, and you, Ms. Kiehl, and obviously the Dreyfuses as well, you do an awful lot of good. You do a lot more good than a senator does, by being here this morning. More people will know about your story tonight because you were here talking about Becky and about Christopher. It means an awful lot to all of us who care about these issues that you would take the time and come and bare your soul a bit about a highly personal problem and difficulty you are facing, and we thank you.

Thank you, Mr. Dreyfuss, and Mrs. Dreyfuss, and we wish Ben all the luck in the world. Good luck tomorrow.

Thank you, Dr. Siegel.

Sitting on my right is John Ferraro, President of the City Council of Los Angeles. Thank you for coming down.

Mr. Ferraro. Senator, I just wanted to come by and welcome you to City Hall and wish you well in these hearings. These are very, very important hearings. It is always a pleasure to see you and you should be in California more often.

Senator Dodd. Thank you, John. It is good to see you, my friend.

Our next witnesses, we have the parents of newborn and adopted children, John Williams. Carole Sherman could not be with us this morning, she has had a medical emergency. Barbara Pillsbury will be testifying in her place. Francisco Roliz, Cathy Hodge and Rebecca Webb.

As you begin to approach up here, kind of fit yourselves in here at this table and we will accommodate you.

John Williams is the adoptive father of four children. Linda Pillsbury is a mother from the Los Angeles area. Francisco Roliz is a father who has traveled from San Francisco, I might add, to be with us here this morning. Catherine Hodge is the adoptive parent of a son who has accompanied her here today, a teacher by profession. She is in the process of adopting yet another child. Rebecca Webb is the mother of an 18-month-old daughter and she has traveled from Portland, Oregon, to testify this morning. She is the news announcer for KINK radio in Portland. Lastly, Donna Salisbury, who is the director of Warmline, an open door society in Los Angeles, she is a parent herself and she runs a telephone warmline as opposed to a hot line, and counsels parents planning to adopt, as well as those who have already adopted. She will talk to us about the importance of job security for such parents.

We thank all of you for coming here this morning and what I would like to do is begin in the order that I introduced you.

I would also announce that we are trying to keep those remarks relatively brief. Whatever you have prepared, I promise you will be made a part of the record, so feel free to summarize your oral testimony. We want to make sure that everyone gets up before the committee here, and has an adequate opportunity to speak. But we want to leave time for questions. Sometimes the questions are a better way of having a good discussion than the testimony. So we will begin with Mr. Williams. We thank you for coming.

STATEMENT OF JOHN WILLIAMS

Mr. **Williams**. Senator Dodd, my name is John Williams, and I have adopted four children in a four-year to six-year period. Myself, I was able to take off time, my wife was able to take off time during those adoptions. I feel that a parent adopting—my kids were special needs kids, they were older children and they needed the guidance of a parent being at home, being able to do certain things for them. Some of the kids had medical problems, they had to be taken care of, but I think the ability of a parent to be home with a child is very helpful in an adoption process. I support this bill.

The **Chairman**. Thank you very much. We will have some questions for you in a few minutes, Mr. Williams.

Linda Pillsbury.

STATEMENT OF LINDA PILLSBURY

Ms. **Pillsbury**. My name is Linda Pillsbury. I am the mother of a two-and-a-half year old. At the time I became pregnant I was an executive at a major television company here in town, where I worked on television series and TV movies and mini-series. I thought I was lucky because our company had a maternity policy. I was going to receive full pay for the time I was out on California disability.

Well, a couple of weeks before I left I was informed that California state law only required the company to keep the job open for four weeks, but I would receive my full salary. I didn't think a thing of it because the shows I was working on were ongoing and were doing well and my colleagues and I had often filled in for each other. Three weeks after my daughter was born, I received a call that our department was reorganizing, my job was no longer in existence. Yes, my full salary would continue until the end of my disability, but I no longer had a job.

At that time I was the main wage earner in our family and luckily my husband had gotten a job. He was in school for most of the time I was at this company, which was three and a half years, and we had to scrimp to make ends meet. I had no indication that this was coming and I just would like to contrast it with company policy on medical leave. The year before I had broken my leg playing softball which is obviously something that they could identify with, because they treated me wonderfully. I was given a car because I couldn't drive my standard shift car with a cast, I in a cast for three months and there was never any questions of when I had to take time off to go to the doctors, or the couple of weeks I was out. There was no question that I had my job and I was in it, but a baby was something else.

Senator **Dodd**. Thank you very much, Linda.

Francisco Roliz, from San Francisco. We thank you for coming down.

STATEMENT OF FRANCISCO ROLIZ

Mr. **Roliz**. No, thank you for having me here.

I would like to read my statement.

Senator **Dodd**. It will be made a part of the record.

Mr. Roliz. Ladies and gentlemen of the Senate Subcommittee on Children, Family, Drugs and Alcoholism. Thank you for this opportunity to testify before you.

I would like to describe my own difficulty in receiving parental leave, to encourage you to support the pending federal legislation for parental leave.

My name is Francisco Roliz, my wife's name is Margarita, and I contacted the Equal Rights Advocate last month, June of '87, to their advice and counselling program to help me get parental leave approved by my supervisors.

Margarita and I first became acquainted with Equal Rights Advocates three years ago to their advice and counselling program. Margarita was getting a pregnancy leave from the job at the United States Postal Service. By the way, we both work for the United States Postal Service in San Francisco.

ERA helped Margarita to be successful in getting her leave. This year, when it became necessary for me to obtain parental leave from the United States Post Office, my wife suggested that we go back to ERA. I have been employed by the United States Postal Service of San Francisco for three years. My official title is mail handler, which means I haul and sort mail from the sacks. I am also a member of the Postal Workers Union Local 302.

Postal leave policies state that when a leave is necessary it should be submitted well in advance. In the case of denial the employee has two weeks in which to appeal. Upon request a union representative accompanies the employee at the appeal. The whole process is informal, but it is time-consuming because leave appeals have the lowest priority and are often denied.

On May 24, 1987, exactly one month before my wife Margarita was due to give birth, I requested three days leave without pay in order to take care after the baby was born. Margarita was pregnant with twins and needed a C section. We also have two other children under age of five. This leave, although covered favorably by language in our Employment Manual of Labor, Section 515.2, was denied on June 6, 1987. The reasons for denial was because I had exhausted my annual leave and sick leave in order to receive physical therapy for on-the-job back injury that I had in May 27, 1986.

Though the Workers Compensation Board had approved the reimbursement of most of my leave, all the necessary paperwork for the reimbursement had not proceeded through, so I ended up not getting any annual leave. I used 80 hours of my annual leave, by the way.

In my first dealings with the denial, I emphasized to my supervisors that the Employment Manual of Labor encourages the granting of parental leave without pay. My reasons was not persuasive and they did not change their minds. After this meeting, my wife called Equal Rights Advocates to their advice and counselling program in June 9th, 1987. For the next several stressful and frustrating days with the help of ERA we negotiated with the Local 302 and my supervisors. There were delays and cancelled appointments. Finally, when it seemed that I would have to simply leave work without permission because I needed to take care of my wife and my family, my supervisors agreed to give me three days leave without pay. Five days to be credited annual leave, which I did have. And two successive weekends off, in other words, change it around to make it a little longer, which included an extra Friday, July 3rd, the weekend of the 4th of July.

The leave was a total of about 13 days, it worked out a little better. But the thing is, that I had to go through a lot of stress and having twins, they had said we could have the babies ahead of time, premature. That was really tough to deal with, just trying to arrange some days off.

In retrospect, the energy, the time and the stress incurred by ERA, my supervisors, the union and my family was unnecessary. This situation could easily be alleviated by the current legislation. Further, even though my family is Hispanic, we are not very different from the majority of the American families. Today many American families are two-income households. Most of these dual-income families' children have many childhood illnesses, emergencies and unforeseen problems. What dual-income households need is more ways for parents to work without this impacting negative leave upon our families.

If there had been a law in place at the time I requested my leave, I would have had an automatic right to take care of my family and children. My wife would have had a less stressful time carrying our twins during the last month instead of worrying about what would happen after her Caesarean. This legislation would have reduced the tension for my wife and me in a crucial moment in our lives, and would have improved the quality of care for our children.

I support the current legislation for parental leave without pay. However, I would like to add that this legislation would be improved if it provided for a pay leave. If a paid leave were given it would be a very large step for Congress in recognizing the needs of today's family members.

Senator DODD. Thank you very much for your testimony.

Catherine Hodge.

STATEMENT OF CATHERINE HODGE

Ms. HODGE. Senate Bill 249 supports and strengthens the basic social structure of our American society, i.e. the family unit. Unpaid child care leave seems to me to be a basic and necessary right. Time and job security was critical to the success of the adoption of my son.

When my adopted son was placed with me, I had one month off before returning to work. It wasn't enough time to settle things and I remember feeling angry. I needed more time to adjust and help him adjust to our new life style. His problems were so great that I was spending several hours a day on the phone trying to make arrangements to solve difficulties. If I could have helped him get better stabilized prior to returning to my work, then many of our continuous problems which interfered with my employment could have been alleviated.

Child care was a constant source of frustration. The child care workers couldn't manage my son and I was therefore seeking out new sources every couple of weeks. This constant change was detrimental to my son's adjustment. He needed my care rather than a turnover of care takers.

Another area of concern has been his schooling. He needed to be placed in special education classes. His teachers and I needed to work together as a team to structure his environment for success. I have had an unlimited amount of contacts and meetings for him at school. However, I needed more time off to get him to school safely, as he was scared enough of cars that he had tantrums in the middle of the street because a car was coming a block away. I needed more time off to help him feel secure, as he was lying about me to his teacher and lying to his teacher about me. I needed more time off to help him adjust to the school routine, as he was so fearful of school that he had requested to be placed with another adoptive family in hopes it would mean he would not have to attend school.

My son has also had many health care problems necessitating ongoing doctor appointments and four hospitalizations. He has had visual problems, allergies, asthma, a seizure disorder and mental health difficulties. He has been a mouth breather and has needed orthodontics work to enable his jaw to grow appropriately. I have had to take much time off from work in order to meet his medical needs, some of which could have been more efficiently taken care of in the beginning had I been able to take time off work.

In conclusion, I needed a leave of absence from my job in order to incorporate a new person into my family. I needed to focus on my family unit in order to ensure its success. I was able to have one month off, but in the long run, if I had had more time off, it would have greatly enhanced my chances of having a successful adoption and increased my job effectiveness. My case is an example of the crucial need for job security with unpaid leave of absence. I support bill S. 249 for we need parental leave to have successful families. Thank you.

Senator DODD. Thank you very much, Ms. Hodge.

Ms. Webb, we thank you for coming down all the way from Portland.

STATEMENT OF REBECCA WEBB

Ms. WEBB. Thank you for the opportunity. Although I had a verbal agreement with my supervisor to be absent from my job for three months after my baby was born, that agreement secured at about six months pregnant, my employer informed me when I was seven months pregnant that I would not be allowed that time off, after all. And at the same time the company, a Portland, Oregon television station, took advantage of the timing to press me for a lengthy two-year contract at cost-of-living compensation. This was not in line with the exceptionally high ratings that my program garnered. We recorded 40 percent market share.

The shock of having child-care plans turned on their head in the last stage of pregnancy, combined with the stress of contract negotiations, presented a threat to my pregnancy and I asked the negotiations be put off, even though my contract was due to expire one week before my due date. I asked that the negotiations be put off until after the baby was born. I did offer to remain under the terms of my present contract until a new agreement could be reached, and that was not unusual.

Departing from previous policy, however, the company insisted that I sign a contract prior to the expiration of my current contract, insisting that I participate in negotiations in the late stages of pregnancy. I offered various compromises, including part-time work or even at one point agreeing to return after ten weeks, but those were denied. One week before my baby was due, I was taken to a small room where the personnel manager urged me to sign the contract. He held the contract in one hand and termination papers in the other, if I did not sign, he said, my services would no longer be required as of 5:00 o'clock that day. I had worked successfully for that TV station for five years, but I felt that I could not compromise the bonding period that I believed was critical to my child's future emotional health.

I believe that two factors were at work here, Senator, the company did not want to set a precedent of giving three months time off because there were four other pregnant working women there at the time, and I also believe that the company management thought I was vulnerable because I was so pregnant and given a little bit of pressure wouldn't want to lose my job in television and therefore would sign the two-year contract.

I think that my testimony here today pales in comparison to the other stories that I have heard, particularly those from parents with special needs children, but I still believe that my experience demonstrates the overall vulnerability of pregnant women in our work force, most of them are not protected by law. It's ironic, I think, that I would have been entitled to the three months that I was asking for under legislation we recently passed in the State of Oregon.

As you may know from published research on the early weeks of life, there is no substitute for mother and baby being together during those early months. This premise is widely recognized in some more progressive countries; Newsweek Magazine reports, for example, that in Sweden mothers take several months off work and fathers are also grant months of paternity leave as well. We are behind much of the rest of the world in this area, as you are well aware.

Men, who still run the business world, have never as a group paid the price for parenting, either at home or in the work place. Yet, business must come to grips with the American family, its workers are increasingly women. It is my understanding that women now make up over half the American work force and most workers, men and women, have families. We have yet to see the consequences of a generation raised by day care centers.

I've come here to urge you to do what you can to pass this legislation protecting a brief bonding period for mothers and/or fathers and their newborn infants. It is my belief that the emotional well being of the children and consequently the future stability of our society may depend on it.

Senator Dodd. Thank you very much for that very good testimony.

Last, Donna Salisbury. We thank you for being here this morning. Your testimony will be made part of the record.

STATEMENT OF DONNA SALISBURY

Ms. SALISBURY. As a parent who has children by birth, adoption, and foster care, I can personally attest to the enormity of time needed for their care, but as the Director of the Adoption Warmline, which is a unique telephone support service offered free to persons with adoption related issues, I am the ear and the advocate for thousands of my callers who have poured out a multitude of personal stories.

I find it ironic that personal testimony regarding the need for family and medical leave is called for on this, a week day morning, when those who couldn't get leave for the needs of their children cannot possibly get it to ask for that leave for others.

This room cannot be filled with my callers, but my files and my heart are filled with their stories. I would like to tell you about just a few of last month calls gleaned from the report forms for the month of June 1987.

The first one is a single woman adopting two little girls. She called very frustrated and very worried. The youngest child was so mistrusting and sad and so unable to show the grief and the fear from the loss of past families. Only her anger could be expressed. Adopting these children, for her and for others, demands time at home to understand their needs, work out plans and get support systems in place. This caller had already missed work for five adoption agency interviews, for a mandatory physical exam, for all the adoption procedures, school registration of her new children, for day care selections, spring break day camp, mental health center intake appointments, physical exams for the children.

Now this little girl was dismissed from day care. She had kicked a teacher, fought with children, stolen toys and run away and needed two more daytime appointments at mental health before even starting her therapy sessions. The new mom's dilemma? She said, "I'm worried about my job. My boss does not understand. If I take the time she needs, I will lose my job."

This child is in tremendous emotional pain now and may lose this chance for a permanent family without an understanding boss or legislation that can help this along.

The second caller on my list was a woman who tried taking her insecure new little child to her job as a school librarian. It proved unworkable. She quit her job and hopes to get another one when the child's nightmares and her daytime screams subside.

Another call last month was from a person who adopted a very high-risk child five years ago. This child has not fared well. The damage is too great. The child needs hospital treatment. He will enter a state mental hospital when the appropriate program opens in two or three weeks. Until then, what can she do? You can't send a severely depressed, highly medicated young boy to the corner to wait for the school bus, you don't let him come home to an empty house, you must be there. This child may run, he may hurt other people, he may injure himself.

There was also a disheartening report from a woman who made her choice between job and the retention of the new adopted child in her home. She chose to keep her son and quit her job.

AFDC and food stamps help support this family. If she had chosen work and let this child return to the foster care system, this child would cost us far more, the odds would greatly increase that we would continue this child's financial support through welfare systems and even penal systems when he is an adult, without a family.

Another gentleman called who wants to adopt his seven-year-old nephew. Mom was a drug addict and is now dead, the father is in jail. There has been physical and sexual abuse of this child. This man's preparation to adopt his nephew includes visits to an adoption agency, a lawyer and much time in court. There will be appointments to a doctor regarding the abuse, a neurologist to investigate the child's seizures and there will follow other agency visits and multiple court dates and enumerable other arrangements.

There are eight others in my June report that would have benefited from Senate Bill 249, and June was a light month. In the five years of the Warmline's existence, at least 800 families in need of family and medical leave have called. I am one person, operating one support service, about one issue of adoption, in one county, in one state. Not all of these persons would take significant unpaid leave time, but I do believe that all of them deserve the right to choose it if they must.

Thank you for this chance for children.

Senator DODD. Thank you, very, very much.

Let me ask you some very quick questions, if I can. First of all, Mr. Williams, if you and your wife, and I understand you had to use vacation time, but in the absence of the ability to take time off, would you have proceeded with adopting a child if you could not have had that time, or some time to adjust?

[Mr. Williams nods yes.]

Senator DODD. You would have. How much easier was it for you to facilitate the adjustment of a new person coming into the family, as a result of having the time?

Mr. WILLIAMS. It roughly took between a month and a month and a half for the adjustment to take place. The first one was the toughest, the second was about two to three years in-between, and that was a little easier. The first one was more difficult because the child had some psychological problems and had problems in preschool, child care. My particular child got himself kicked out more than one child care, so we had to move around and try different child care, work with him, medical, psychological problems. But being able to have this time, my wife and I got him over the huddle and everything seemed to smooth out after that.

Senator DODD. We have heard a number of people here talking about special needs adoption. I should point out that the special needs adoption legislation is up for reauthorization this year in the Congress, and I will tell you we will have no difficulty reauthorizing the bill. Everybody supports the effort to assist in special needs adoption, every Democrat, Republican, Liberal or Conservative, they all support the bill.

What they fail to understand is, that there are very few agencies in the country that will allow a family to pursue a special needs adoption unless that family has the time to work with those children. And so the irony is that the very same people who will co-sponsor the special needs adoption legislation, will not co-sponsor the legislation of parental leave so the parents can have the time off to be with those special needs children. It is the Catch-22 kind of situation and I would be remiss if I didn't mention that here.

Linda Pillsbury, I think you make a very good point in that your company gave you all the time you needed to deal with your broken leg; everyone tripped over themselves to take care of your leg and get you back on the job. Did the production company you worked for have a habit of firing pregnant women or women that had just delivered, is this a pattern of behavior?

Ms. PILLSBURY. In the six months around the time that I was having my child, there were two other cases of pregnant executives whose jobs were terminated. Now, everyone has their own special circumstances, their own special contract, so I can't speak for what happened to them, but in addition to the three of us, there were three secretaries at the same company who were pregnant, they had their babies, they were again told the same, you have to come back within four weeks and they came back within four weeks and they were all forced out of their jobs. So I feel while they might say there's a different reason for each case, it's a pattern of how to deal with pregnant employees and mothers of newborn children.

It is supposed to be great if a dad has a family, they are more stable employees. For a mom, well, she is going to have to take off when the kid had chicken pox and that is just a fact of live, that someone does so you have to pay for it. And many, many people are not in the position to—you know, hire full-time somebody else to do all of that. I was not.

Senator DODD. Mr. Roliz, why do you think it's important for fathers to be able to have parental leave?

Mr. ROLIZ. Why do I think it's important for fathers? Because not all the time the mother could take care of everything in one time, especially in my case with four kids, I am pretty sure in the United States there are a lot of people that have more than four kids and at the time right now, my twins only 28 days old, I need to bring them to the doctor and stuff, and on weekends it doesn't work. My wife, having the Caesarean, she is still having problems with it, but I cannot take off from work right now, where I could use another week to help them. That is the reason I feel not all the time the mother only can take care of the kids, especially——

Senator DODD. I agree. I tell you one of the difficulties we are having is getting businesses and others to be sensitive to fathers. I have held meetings with corporations around the country on the issue of child care and parental leave, and I asked the corporations to send a representative to come and discuss the issue. I don't need to tell you that almost without exception what they do is send some woman because it is kind of a "gal's" issue, so they send someone out in the morning that they feel doesn't have anything else to do that morning, but attend the meeting. "Real men" are supposedly not interested in this kind of subject matter. I think you brought this out, all of you in your discussion, but I think it is extremely important that people be more aware that one of the most positive things that's occurring in our society today is the fact that men are far more interested in child rearing than they were in the past. That's a very positive occurrence and it ought to be encouraged and it ought to be supported.

It makes a tremendous difference. I will not take the time here this morning to share with you the testimony of other witnesses we have had, fathers who were able to get leave with a very sick child, where their wives were not, and what a difference that made for their relationship with their children. It was tragedy that brought it together, but the ability for a father and a daughter to be together was profound, we heard that in testimony from the number of witnesses that have come forth.

So we thank you, Mr. Roliz, for being here and expressing that viewpoint.

Ms. Hodge, I understand you are thinking about adopting another child?

Ms. **Hodge**. Yes. My home is currently being studied by an adoption agency for consideration of a placement of siblings.

Senator **Dodd**. We have the future senator over here as well. Why don't you stand up and be recognized. We welcome you here this morning as well, thank you for coming.

How important would it be for you to have that job protection and leave if you actually go forward with an additional adoption?

Ms. **Hodge**. Well, I was lucky in my first adoption in that my son was placed with me during summer vacation and as a teacher I had a month off before school started. I hope my next placement will be during the summer, but that can't be predicted. I really feel it will be necessary for me to take off time during my next adoption. As a teacher I do have some unpaid leave for child care. But as a single parent, I can't financially afford to take advantage of it. I am hoping that, with the passage of this bill, further investigation will be conducted into obtaining provisions for a paid leave of absence. Until then, I will just have to juggle my time and work things out the best way that I can, however limited or detrimental that may be to my family as well as to my employer.

Senator **Dodd**. Let me ask you a question. You startled me when you said you had a 40 percent market share, that's pretty stunning, Ms. Webb. I saw some of the people working the cameras here, with their eyebrows going up. That kind of a market share is overwhelming.

I presume a part of that higher rating had to do with your personality and your ability as a news person. If you were to take three months off, these are very fragile ratings, they can get blown out of the water by occurrences that you wouldn't necessarily predict. Do you think it might have hurt that station? How much would it have hurt that station had you been off the air for three months?

Ms. **Webb**. Well, ratings aren't built overnight and no one person is responsible for high or low ratings, and so I was part of a group effort. I like to think I would be missed to some degree, however, one of the compromises that I offered was a daytime noon show, a sort of Good Morning America of Portland, and we had a weekly psychologist who would come on and do child-related topics. One of the compromises that I offered was to have the psychologist come to my home on a daily or weekly basis and cut segments that would have to do with very early child development, that sort of thing.

I guess that they felt that was either not a great enough participation on my part in the program, or that it would be too expensive to have the psychologist come to my home to do that.

I think really what it boiled down to, they know as all of you do, that people who are on television have gigantic egos and can't bear the thought of not being on television, and frankly, I believe that they thought, well, we will just kind of push the screws in a little bit and she will sign the sucker because she won't want to lose her job in TV, and I called their bluff.

Senator DODD. Lastly, Ms. Salisbury, you have heard me mention how the incongruity, the Catch-22, with special needs adoption and the lack of a parental leave policy. Maybe you would like to expand on that a little bit, since you have spent so much time on that Warmline.

Ms. SALISBURY. I would like to say that I have been painfully listening to the stories of these families, and it's not an uncommon occurrence, it is a very common occurrence to listen to a family say to me, I want to keep trying, I want to keep this child, this child came to me with such a multitude of emotional and physical and mental problems, that I must keep going, I must meet the needs of this child and yet I can't. Because if I can't get leave, if I can't get time off work to take care of these incidentals, I will lose my job. And what is my choice, I have to eat, I have to pay rent, yet I want to help this child.

Some children are not growing up in adoptive homes because potential adopting families cannot get the support that they need from society.

Senator DODD. Thank you all very, very much.

We may have some additional questions for some of you that we will send to you and ask you to respond in writing. But we thank you for coming here this morning, particularly in the case of those of you that have come from a great distance, Portland, Oregon and San Francisco and elsewhere on the west coast, to be here in Los Angeles to tell us about your own experiences or the experiences of others, in your case, Ms. Salisbury, where you deal with so many different people on the Warmline telephone system you have for assisting people in these efforts.

We hope to keep on pressing on this and one day in the not too distant future, maybe we will have a piece of legislation that would alleviate an awful lot of the problems you people have faced in your jobs, and also in trying to take on adopted children or newborn children coming into your lives. So I personally thank you for coming down here this morning.

On our next panel of witnesses I am honored to welcome the man who runs this building, the Distinguished Mayor of the City of Los Angeles—a personal good friend—Mayor Tom Bradley. He needs no introduction in this room or any other room, I might add, around this country. We thank him for allowing us to use this building for this Congressional hearing.

My good friend Howard Berman, the Congressman from Los Angeles, is here and I should note that it was my friend and colleague Howard Berman who was the father of the California Maternity

Disability Statute. Rarely does a state legislator get to see his own laws challenged by the highest court in the land and upheld. Recently the Supreme Court of the United States did just that.

Assemblyman Tom Bates, who has served in the California State Legislature for 11 years, Chairman of the Human Services Committee, putting together a task force on the changing family, looking ahead to the year 2000. I want to commend you for this as I am trying to get something going on a national level along those same grounds. If we can get people to focus on that we would be in better shape on some of this legislation.

Assemblywoman Gwen Moore, again from the State Legislature in California, elected in 1978, author of the California Parental Leave Bill currently pending in the assembly.

Connecticut, I want you to know, was the first state to adopt a Parental Leave Policy for state workers this year. We are very proud of that in Connecticut.

Councilwoman Joy Picus, the Los Angeles City Council, served in the City Council for ten years, and now chairs the personnel committee.

Mayor, we thank you for welcoming us here. John Ferraro was down here as President of the City Council, to give a hello, and he's been a good friend and very gracious to allow us in this building.

We will start with Congressman Berman, because I know he has a plane to catch.

Mayor, we are delighted to receive your testimony, and are honored you are here.

STATEMENT OF TOM BRADLEY, MAYOR, CITY OF LOS ANGELES, CA

Mayor **Bradley**. Senator Dodd, we thank you for your sensitivity and your concern about this very vital issue of establishing national policy on medical leave, parental leave, the kind of things that you clearly had the witnesses this morning demonstrate by their personal experience the importance of such a national policy.

I compliment you for the leadership which you have taken on this issue and we certainly are very happy to welcome you to Los Angeles and to City Hall.

We are very much aware of the problem, and I want you to know first off, I support this kind of national policy, we have seen it in action here in the City Hall, we know that it works, we know that it can be a source of boosting of the morale of our employees and we have taken some modest steps in that regard.

What you are attempting to do, I think it very important, to establish a national policy that says to the whole country we have sensitivity, we have concern and appreciation for family life in this nation.

We have seen a dramatic changes take place in the work force over the course of the last few years and therefore I think our policies have changed. In 1947, only 32 percent of all adult women worked. It is projected by the year 1990, women will comprise 60 percent of the U.S. labor market. That statistic in and of itself ought to tell us the time has come for us to change something. Nearly 50 percent of all mothers with infants under one year of age are now in the work force, a 52 percent increase since 1976. Just a mere 11 years.

Approximately 70 percent of all employed mothers with preschool children work full-time. We've seen a dramatic change, not only single parent families, but both parents working have now established a whole new concept for the work force of this nation, and the problems that arise from that need sometimes to leave their jobs, either for a few days or longer, to take care of their children and their families who may be ill or who may be having other problems.

We have a broad personal leave policy in the City of Los Angeles that we think makes economic sense. We strongly feel that our policy has enhanced the City's employer-employee relationship and with the changing family structure and dramatic changes in the nation's work force dictating the implementation of adjustable leave of absence policies, we need to establish the policy nationwide that clearly says that to all of us.

Los Angeles is working to meet another city employee need, and that is city-sponsored child care programs. In a recent survey that was conducted with 30,000 employees, the tremendous numbers, something like 70 percent, indicating that there was the need for child care services for this city, has resulted in our pursuing a policy or program that we started almost 14 years ago, and we recently opened one facility paid for by the resources of our Department of Water and Power, to make available to their employees the child care center in downtown Los Angeles. Just a few days ago Joy Picus and I held a press conference to announce a new initiative, and that is a house that we have recycled from what was energy conservation example for the city, and we turned that into a child care center.

These are the kind of things that are absolutely essential. There is no question about the need, it's just a question of whether or not we as a nation have the will to do what we know is right, and I believe that through your leadership we are going to see this policy adopted. I know that it is something which may take more than a year, you know that very well, but you've got to start somewhere. You have done it. Congratulations.

Senator DODD. Thank you very much. Part of our idea is to get out of Washington, a little bit. There is a tendency to have all the hearings there, and part of the notion was to get out around the countryside.

We were with your colleague, Ray Flynn in Boston, we've had a hearing there, and we are going to be with your colleagues in City Hall in Chicago and Atlanta as well, holding similar hearings there to try and develop more interest in this issue.

Unfortunately, an awful lot of people don't know the stories, some of which we heard this morning, about families that face these incredible choices, impossible choices, really. So we hope it helps somewhat.

I would hope that the National League of Cities might adopt a position supportive of something like this legislation. I would urge you to bring it to their attention as a way of promoting the concept for parental leave, if not specifically the bill that I have introduced in the Senate and Congresswoman Schroeder has introduced in the

House along with Howard Berman and others. We could use that support and that helps.

Mayor Bradley. Thank you. You may be sure that I will give it that support.

Senator DODD. We are lucky to have with us here this morning one of the distinguished members of your Congressional Delegation. As I mentioned earlier he was the father of the Maternity Disability Leave who recently saw his legislation challenged in the highest court of the land and upheld. We welcome you here, Howard. You have done a great deal of work, both here in California and in Washington on these issues and I know you have a flight to catch, so if you leave us early we will understand as well.

STATEMENT OF HON. HOWARD BERMAN, A U.S. CONGRESSMAN FROM THE STATE OF CALIFORNIA

Congressman BERMAN. Thank you very much, Senator. I want to echo Mayor Bradley's commendation of you not only for S. 249, but for going around the country and holding these hearings.

What we are seeing on this legislation back in Washington is a great deal of organized opposition, and I think the only way to combat that is to arouse the grass roots support for what I think is a compelling idea. The way you are doing it, I think, is the way this is going to happen.

I know that you have a number of panels after this, that we all have testimony. I ask that my written testimony be made part of the record, and so rather than read from that testimony, I would just like to make two points.

Contrary to what a number of the critics of this legislation have said, parental leave is not a fanciful avant-garde, yuppified kind of an idea which has been dreamed up by some new-age feminist study center as a way of weaning housewives away from their homes or mothers into the workforce. A huge percentage of working mothers work because they have to, because they are single heads of households, or because only by both parents working can the family eke out a decent income.

Legislatively guaranteed parental leave, by enhancing the flexibility with which a family can confront the need to continue working and the commitment and the desire to raise a family, is an urgent priority.

The second point is really in response to what we are going to be seeing and what we are seeing now in Washington. Employer associations like the U.S. Chamber of Commerce will come before us and they will scream and they will moan about the enormous burdens which this legislation will place on the employer. Parenthetically, they'll also talk about how many employers already do this. I'd only like to remind—you don't need the reminding, but to point out that we should be very skeptical of these claims of economic ruination and diminished competitiveness and government-imposed workforce rigidities.

For nine years, as you mentioned in introducing me, under a bill that I authored as a member of the California Assembly, we have had in California a guaranteed maternity leave which obligates employers to reinstate women who have left their jobs as a result of pregnancy for up to four months, the same terms as is provided for in this parental leave legislation that you are sponsoring. And that has required, as I mentioned, all employers and not just employers of 15 or more, but all employers to provide up to four months of unpaid leave.

We haven't seen representatives of business coming up to Sacramento saying the most urgent need for the California business climate is to repeal this legislation. People have operated under this law, they have complied with this law for the most part. One employer who didn't took it to the Supreme Court and the law was upheld there. They have functioned under this law without any of the assertions we are now hearing from some of business' representatives in Washington about what will happen if this legislation is passed nationwide.

I would only point out again that some of the same arguments we are hearing now about this urgently needed legislation, we heard about the minimum wage legislation in the 1930s, and the collective bargaining legislation and Workers' Compensation legislation and Occupational Health and Safety legislation. It is almost a boilerplate of opposition. In reality, the employee morale, the flexibility, the ability to function in an environment which encourages people to work and to be happy in their work and not be forced into decisions made out of desperation, I think this will only enhance our competitiveness, as you mentioned earlier in your testimony, and I am happy to be here today in support of S. 249.

Thank you for inviting me and I am happy to join with my distinguished colleagues, some of whom are carrying on the fight now in Sacramento to expand what we did earlier. I appreciate it.

Senator Dodd. Thank you very much, Congressman, for your testimony.

I should point out that Gus Hawkins wanted to be with us here today and could not come, but he has a statement I am going to include in the record in support of the legislation.

Assemblyman Bates, we thank you for coming here this morning and will be glad to receive your testimony.

STATEMENT OF TOM BATES, ASSEMBLYMAN, CALIFORNIA STATE ASSEMBLY

Assemblyman Bates. Thank you very much. I think I am going to follow the lead of my good friend Howard Berman, and keep my remarks fairly short.

I have prepared some written information which I would like to have included as part of the record.

Senator Dodd. Absolutely.

Assemblyman Bates. Senator, what I would like to do is tell you a bit about what we are doing in California around the issues of family and trying to popularize the family to encourage debate and discussion in California.

First of all, when we examine our laws in California, we come up with the notion that they are really based on the 1950s notion of a sort of Ozzie and Harriet type of family. When we examine that kind of family we realize that such a family—where the man is working and the woman is staying home taking care of the kids—

represents only 10 percent of the families in California. So as a consequence, we have predicated a lot of our ideas and a lot of our policies based on the myth that somehow or other this is what the family looks like. In reality, the family is more like what you have heard here today, where both parents work, where situations centering around parental leave and other things have become real issues.

So we, in California, are looking at the possibility of examining these issues in depth. There are three major issues occurring in California. The first is the whole question of the fabric and composition, of the family. We know that that's changing. We know that the people are having to work. You have heard repeatedly that 80 percent of the people in California, both husband and wife, work. In California, we know that the family, is not only changing in the sense that women are working, but that people are also living much longer and that we can anticipate an 80 percent increase in people living beyond the age of 85.

In addition, we are experiencing a mini baby boom, so that we are seeing a 25 percent increase in our young people. In both ends of the age scale we are seeing more people coming into play. In addition, we see a transition in the rest of the country, from a manufacturing to an information and service-based economy. We need to prepare for that kind of economy. In addition to the situation of people being younger and older, we also find another dynamic occurring in California. After the year 2000 we will actually experience a worker shortage; we won't have enough people to fill these new types of jobs that are coming on line.

We have, on the one hand, the family changing and our economy changing and then, in addition, we have some demographic changes occurring in California. By the year 2000 we will be a majority-minority state, where Hispanics and blacks and Asians will comprise more than 50 percent of the population. We must ensure economic stability for a broad and diverse family population. It's a true rainbow and a true opportunity to blend our policies to take advantage of the multi-cultural character of the families that come into our state.

We are excited about those prospects and we are trying to build on our experiences in California. In March, the committee I chair, the Committee on Human Services, held what was billed as one of the first hearings in the country on examining the family to the year 2000. Out of that, we incorporated a tremendous amount of testimony which we are still looking at and deciphering. We will be issuing a report shortly and shall have the basis for policy discussion and, legislation.

In addition, Senator Roberti and I will be hosting a second hearing on the changing family to the year 2000 in Los Angeles, this November. We will form a joint task force between the Assembly and the Senate to go through and analyze the testimony from those family hearings. We will then come out with a legislative program for the family in California.

Some of the areas that we feel obviously need to be covered are your parental leave consideration at the national level and Assemblywoman Gwen Moore, who has been a champion of this at the local level and state level, continues to lead the battle in Sacramento. We hope that it will succeed.

We also think it is important to focus on child care concerns. Not only do we not have enough child care slots in California, but we need to provide enough money to make sure that the ones we have are able to stay in business. Because of some state funding constrictions that the governor has placed, we have actually lost a lot of our state-sponsored child care.

We also feel it is very important to look at the work site, and to start dealing with policies such as flexible work schedules and to point out to employers that job sharing, flex time and home-base work with benefits, may, in fact, be the future. We in California want to figure out ways in which we can tailor our policies to make sure those are good-paying jobs that include benefits.

In addition to that, we are concerned, about the aging population. We've got to start addressing this problem. We cannot come close to housing all of the elderly in our convalescent hospitals. It is simply a physical impossibility. We've got to figure out other strategies so people can live with dignity in their later years.

We are attempting now to look at this and to get ahead of the problem if possible. We deal with crises at the state level as we do at the national level. Somehow or other we need to get beyond the crisis of the moment and plan ahead of the problem. In California, we are hoping to do just that and will be interested in keeping you informed and the Congress informed of our efforts.

Senator **Dodd**. You have always been on the cutting edge out here in so many areas, and this is one of them. First you obviously had Howard's legislation. And what you have done now Assemblywoman Moore and others, I see as sort of a mosaic or puzzle, if you will. Parental leave is one piece and child care is another. Then there are WIC programs because this process really begins earlier than just when the child is born. I happen to be a subscriber to the notion that early childhood development is critical. If in those earliest months during the period of pregnancy and the period immediately after to the age of five or six of the child, you deal effectively with that particular period of time, you reduce substantially a whole series of other problems that occur later. We fund millions and billions of dollar to treat and deal with problems later on. If we would invest a small amount earlier on, we would be far ahead.

Assemblywoman Moore, we welcome you here this morning as well, and I can see you are already going to contest me on my Connecticut allegation. In fact, you already have.

STATEMENT OF GWEN MOORE, ASSEMBLYWOMAN, CALIFORNIA STATE ASSEMBLY

Assemblywoman **Moore**. Not really testing you. Sometimes what we do is not as well known as we think it is.

I would like to thank you for your opportunity to be able to appear here today to express my support for the adoption of a national policy for parental leave, more specifically S. 249.

I think it is fitting that you have selected California as the site for your hearing, given our experience in the area. As you have already noted, the experience with our pregnancy disability by my former colleague, Congressman Howard Berman, also I'd like at this time, if I might, Senator, to point out to you that we have here the young woman who had the courage of her convictions and tested it all the way to the Supreme Court, Lillian Garland.

Senator **Dodd.** Where is Lillian? [Applause.]

Assemblywoman **Moore.** I also think, another reason that I commend you for holding your hearing here in California, is the fact that the State of California has had a successful program since 1981. Now, I am not aware of the policy that was adopted in Connecticut, but here in California, our policy has been for a period of up to one year of unpaid leave for both men and women in the State of California. The program, I consider it to be successful because since its inception in 1981, there has not been one formal complaint against it and, in fact, the State Personnel Board which manages that program is a strong supporter of my legislation, which I think is an indication that the state has managed a successful program.

Finally, my own legislation which I have been in the process of developing for the last four years, meeting probably much of the same opposition that you are experiencing on your own level, on the federal level, probably on a smaller scale, but obviously the same kinds of questions that have been raised.

We have tried to manage that by developing a series of meetings that met over the past four years with small business, with employees, employers, trying to come up with a program that we thought was fair. I think we have done that, as indicated in my bill that's now pending in the Senate Appropriation Committee in our own House, hopefully we will get that out and signed into law this year.

Essentially what AB 368 does, is provide for an unpaid leave of absence of up to four months for both men and women, it's limited to a one-time basis, that was once within a 24-month period, and that the employee must have worked for a year before they would be eligible to take such a leave. It's limited to businesses that have sites that have at least 15 employees at one site. I think it's fair, I think that the regulations that will actually implement the law will be developed with both the input from business and employees to be sure that if it imposes a hardship, that those things are taken into consideration.

That bill was pending before our legislature, and as I indicate, I do hope it will pass.

I will be happy to answer any questions that you might have regarding that, but I would just like to add a couple of statistics to those that have already been thrown out, that further cite the importance of such legislation.

Here in California we have over 700,000 latch key children, which means that they are unmanaged and unsupervised for extended periods of time. Of that number, about 25,000 children under the age of ten have been arrested for serious crimes. I think that all these things contribute when parents, as the Mayor has pointed out, with the changing work force with both men and women having to work, with the number of single families having to work, the need for parent and parent bonding, as you point out, in the early years is extremely important. And since 60 percent of the women in the workforce have children under the age of three, that early bonding can only take place if we can develop on a national policy level a parental leave that would allow them to do such things.

Thank you for this opportunity.

Senator Dodd. Thank you very, very much. I do have a couple of questions I will put to you on your legislation.

Ms. Picus, we thank you for coming here this morning as well. We would be glad to receive your testimony.

STATEMENT OF JOY PICUS, COUNCILWOMAN, LOS ANGELES CITY COUNCIL

Ms. Picus. Senator, I am so delighted that you have chosen to come to Los Angeles on this particular issue, because this issue is the broad framework of what I call a family economic policy, is what is motivating my life as an elected official these days, and has given me a sense of mission about what I want to accomplish while I am an elected official.

I gather from what I've read, from what you've said, that you, too, feel this sense of mission about this vital issue. I am also delighted to be joining with my colleagues at the national and state level. It brings us together, northern and southern California, to join forces in this effort.

We pride ourselves as a nation on how much we love our children. We refer to our children as our great national resource. But there is such a gap between what we say and what we do, because in truth, if we did truly value our children as much as we say, then we would have these policies in place, the child care, alternative work schedules and flexible benefit policies along with the parental leave proposed in your legislation.

We show where our priorities are by how we spend our money and the quality of our response when these issues are brought forth before us.

I am, in truth, a woman of the 50s, I raised three 1950's baby boom children. I was lucky, I was able to stay home and be a full-time mom to my kids. But I also recognize that hamburger was 59 cents per pound, you could buy a pair of sneakers for 3.99 and that you could buy a house for what you now pay for an automobile. I know how the demographics have changed. That has been brought out so vividly by my colleagues in their testimony and by the parents who testified on how difficult it is for them to make ends meet. The stereotypical family, the Cleavers of the 1950s, just doesn't exist anymore.

These changes in the workforce have not been fully recognized by our institutions which are still delivering services as if the recipients were the stereotypical families. And the fact that we don't recognize what needs to be done to provide support for families, causes a lot of conflict, tension, and stress in the workforce and it saps our productivity as a country. So looking at it only from the economic point of view, providing these kinds of benefits, of which parental leave is a critical element, is vital just in terms of being a productive society.

As I said, I really work in every way to move these policies forward. I am president this year of Women in Municipal Government, which is the nationwide organization of elected women, mayors and council members. And we have parental leave and other policies supportive of families high on our agenda. Members of the National League of Cities' Human Development Committee are putting proposals to support these policies before our national organization.

At the state level, as an active member of the League of California Cities, I am co-chairing a recently created task force on family economic policy in cooperation with the County Supervisors' Association of California. We are looking at how local governments can respond to the need, recognizing that we are dealing with diminishing resources at a time of increasing demands. That means we are trying to address the hard-nosed policy issues as employers.

Just a little bit aside, I am concerned also about inter-generational programs, and hope to do a pilot program in my district for senior citizens and child care together. I don't know yet how the concept will evolve; the idea was only generated a week or two ago, and we haven't yet started meeting to decide what the program will look like, but we are making every effort to move ahead on a creative approach.

In addition, I also work with the private sector and I know you have expressed some interest in public-private partnership. I am working with United Way and with the Los Angeles Chamber of Commerce in reaching out, through the enlightened business community, to the corporate people in Los Angeles to show them that it isn't going to be too expensive, that the real expense comes from not dealing with these issues and with the lack of productivity, with the low morale, with the absenteeism that results when people can no longer juggle their private lives and their personal lives. Secretary of Labor, Bill Brock, said we seem to forget that workers have families. That's what you are interested in and that's what I am interested in.

I pledge my full support to accomplish these goals.

Senator Dodd. Thank you very, very much. You bring a lot of enthusiasm to the issue.

Just a couple of points. People forget. California, I think is the tenth largest economy in the world and it is just remarkable that so much goes on here. There are two criticisms that you'll get, and we will hear some of it later, about the bill that I'm promoting on the national level and which you have done on the state level. It will just kill small business, No. 1. And No. 2, it's particularly discriminatory against women as women apply for jobs. The notion is if you have a proposition like this and given that employers are still predominately men, they are going to be less inclined to actually hire women because of the potential difficulty of a pregnancy or a sick child and the like.

So the argument goes, while we are well-intentioned with this kind of legislation, and while we are strong supporters of promoting small business and increasing employment opportunities for women, that actually what we are doing by promoting this legislation, is being extremely harmful to small business and extremely harmful to women. Those are the two major criticisms. If I had to pick out only two of the criticisms of this bill, that is what I would get.

Now, in California, you had 306,000 businesses with less than 20 workers, in 1976; and you had 31,000 businesses with 20 to 99 employees. In 1984, which are the latest statistics I have, businesses with less than 20 workers went from 306,000 to 377,00, up almost 70,000; and businesses with 20 to 99 employees went from 31,000 up to 46,000. Lastly, in terms of the statistics on women employed in the State of California, in 1977 there were 3,829,000. In 1985, there were 5,413,000 women employed. So in that same period of time, roughly an overlapping time, that you have had maternity disability leave and the parental leave issue as well, small business has actually increased in numbers and female employment has gone up. I wonder if you might just comment on that. You mentioned particularly that not one single complaint has been filed in state government with the parental leave policy. I wonder if you might examine that a little bit further.

Ms. Moore. I think that first of all, your own figures reveal and show how unfounded some of those arguments are. Another one you might add to those that you just threw out is the fact that California's economic growth was 3.3 or something as opposed to the nationwide at 2.6, which also says that business continues to grow.

As you point out, I have had the same kinds of criticisms raised about the bill that I am proposing, that's why I feel that the bill that I am proposing is very fair. As it is now, the bill will only affect at this time about 20 percent, that is why I think it is so important to the national policy to be established. But basically what we've tried to do is to respond to every concern that the businesses have. The bill is unpaid leave, so it is at no cost to the business. Benefits continue, but they have to be paid by the employee so there's no cost to the business at that time.

Basically what we've been able to do is to try to work out all the concerns that are really valid in the sense that it was never my intention, as I am sure it's not yours, to put anybody out of business. So we try to work with those concerns that could be considered real. We also have a provision in the bill that if it can be demonstrated that it is a hardship to the business, then there can be something worked out short of the up to four months leave that's a part of bill. The negotiation, the implementation regulations will give some flexibility in the development of those kinds of things while we are still providing some protection for the employee that finds it necessary to go off and take care of a child or carry out his parental responsibilities.

I say to you, Senator, and to the businesses, that how productive can an employee be who has a sick child at home, how much can they give to that company. We think that a parental leave would provide them with that opportunity to do so.

Senator Dodd. I agree. For instance, you have a requirement for a year of employment before the provisions of your bill kick in. We don't have that in our bill as yet, but I think that is a very good idea. We get a lot of concerns expressed by employers, particularly of fast food operators and so forth, who worry that an employee comes in and works for a week and all of a sudden qualifies under this for the benefits maintained under our bill. I think there is some legitimacy in that concern.

You point out as well, there are certain businesses that because of the nature of the employment, find it difficult to replace people. We are trying to provide some flexibility in there so that we don't adversely impact any businesses that have those special needs.

Lastly, we follow a small business exemption for firms with fewer than 15 employees, and as I mentioned, under that exemption about 80 percent of the businesses are cut out and about 25 percent of employees are cut out. We are going to hear testimony a little later this morning from the National Association of Women Business Owners. They recommend having a shorter period of leave, but a lower small business exemption, dropping it down to firms with five employees or fewer. They would shorten the period of time that you would have unpaid leave, but make it available to a greater percentage of the workforce, arguing that a significant percentage of women work for smaller businesses and that we are missing an awful lot of women by placing that small business exemption number at 15. They will testify on their own later and they will be more eloquent about this.

Ms. MOORE. Right. They testified in Sacramento just last week to much of the same.

Senator DODD. Colorado, by the way, and several other states have a small business exemption number of eight and below. We do fifteen. You are doing fifteen. What are your views on that?

Ms. MOORE. When I started with the legislation I started with five, and obviously it generated so much opposition and some very valid concerns inasmuch as the potential hardship on a very small company with just a few employees, to have anyone gone at a period of time, or for any extended period of time would place undue hardship on the business. That's why we went to the much larger kind of operation. In fact, my bill now applies to at least 15 at one site, and it was based on the concern that if it did impose the kind of hardship that was being indicated to me, that there ought to be some accommodation for that.

I think that one of the important aspects of what the National Business Women—they also wanted some accommodation and some kind of support from government in terms of, I think, some financial backing and I think that the lesser time, we went already from one year to four months, and what we have also done, much of what you hear in terms of the opposition, they always talk to the potential for abuse and so the things we have done, we think provide enough safeguards for protection for abuse.

One of the other things was, suppose you have someone who takes a maximum pregnancy leave for up to a year or whatever the pregnancy leave is available, and then turns around and takes the four months as we now have it in our bill. What we've done is a protection or insurance that that as an abuse is not overworked, that when this bill or the parental leave is taken in conjunction with the maximum pregnancy leave, it is limited to one month. So that you don't have—you have some safeguard for the potential for abuse, because it could mean that a company would have to go for a long extended period without help.

As I indicated, we have over the past four years, we have probably heard every argument that can be made against this bill and we've tried as best we can to accommodate, and I feel that the bill now represents a fair balance between the concerns of business and the general need for parental leave or for parents, and I think that the bill on that matter has been balanced in every entity. The only argument that we are really now hearing from business, and it gets down to what I think is really all they can say, is that what the bill does is have government intruding in private business and we should not do that.

Senator **Dodd**. That's what we've got as well. I think it has been a source of some embarrassment to lobbyists in Washington who bring in businesses to testify. I think they get really kind of upset with the business representatives who come and say, "listen, I think this is a terrific idea, my problem is, it's a mandated program and we just have a difficulty with that." Someone suggested making it part of the cafeteria approach, but they fail to understand that we are not talking about an additional day of vacation here or sick leave or some benefits. This is a job security issue. This is one where you are protecting a person's job, not increasing the benefits as we traditionally think of that category. But over and over again we are finding business witnesses who confuse these things. To commend them, some have been tremendously creative in coming up with good ideas on how we make it a stronger bill, how we take into consideration the reality that as you point out, many of them have to face out there.

We have been getting some very constructive advice from many, so I wouldn't want to have our hearing here or any other place leave the notion somehow that all of business is opposed to this, or we haven't gotten good ideas even from those who have opposed it. I just wish you well.

Ms. **Moore**. Just let me add to that, I think that you have a number of businesses that are going to testify, and some of them have been very helpful to me. Particularly I would like to note the Candle Corporation and its representative, who is going to testify later today. They are a very progressive company, a high tech company, which a lot of the arguments have been based upon. They do it and they do it very successfully, as does a number of the very large companies. AT&T, Pacific Telesis, those companies already have such programs established and it certainly has not put them out of business and certainly has not made them not competitive.

So I again thank you for this opportunity and commend you for your efforts.

Assemblyman **Bates**. Senator, I just wanted to remark that something you said earlier I think is really true. A small business where really the bulk of the people are actually employed, having that personal relationship and that inner relationship, generally speaking, would lend itself more towards people saying, sure, take three months or take four months, and we will figure out a way. We will bring in someone temporarily or make some shifts in our job assignments to cover for you. I think we need to have that more flexible workforce anyway, and the workforce of the future, we are going to see more and more task force organized to come in and do particular kinds of jobs. So maybe in the future even with small companies, it won't be that big of a problem.

Lastly, I wanted to point out one other initiative that we are doing in California, and this is a bill that I have authored which would establish an office of family and work and it would be basically to work with the private sector to tell them about the Cafeteria plan, to tell them about these benefits and how they can take advantage of our tax code and how, in fact, productivity is increased by having programs which allow people time off to take care of their sick kids or their elderly parents. I think that this is an idea that may, in fact, happen here in California. At least I certainly hope so. And the private sector has been very supportive of our efforts in this regard, because they realize there's a whole side of it that they never get an opportunity—they want to know about, but they simply don't have access to, particularly the smaller companies.

Senator **Dodd**. It's so much in their interest to do so. As I said at the outset, it's a business issue. Someone pointed out earlier that some of the more progressive countries in the world have adopted parental leave policies. I would add that some of the most regressive countries in the world also have parental leave policies. Parental leave is very much a part of the Soviet system, in Haiti, and in the Philippines, even under the Marcos government there was a parental leave policy in that country. We are just retarded as a society in this regard. Whether progressive or regressive, people have understood and recognized the importance of these issues far ahead of us, and the proof of the pudding is that in some ways we rank at the bottom—we are tied for 20th place in the world, think of this, 20th place in the world for the infant mortality. The United States with all of its wealth tied for 20th place. We rank at the bottom of the heap because the poorest sector of our society are children. We are the only industrialized nation on the face of the earth with the unique distinction of having its future be the poorest sector of our population.

I don't know what the statistics are for Los Angeles, but Connecticut, my home state, is considered today the most affluent state on a per capita basis of any state in the United States. Per capita earnings, are about $20,000 a year, for every man, woman and child in the State of Connecticut. We have a population of less than, I think, the County of Los Angeles—I am sure it's less—about 3 million people.

Ms. **Moore**. It is 8 million in the County of Los Angeles, 3 million in the city.

Connecticut has two of the cities which rank as the seventh and fourth poorest cities in America. Every other child on the streets of Hartford, Connecticut, and of New Haven, Connecticut, is growing up in poverty. Every other child you see, while in the midst of this tremendous affluence is poor. You know, it's a little mind-boggling that every politician I have listened to for the last several years have given one hell of a speech on the family in America. But you start trying to do something about the economy in transition and the family in transition, and that's a different story. In fact, I would argue that even Ozzie and Harriet weren't really Ozzie and Harriet in the 1950s. That kind of covered over pretty effectively what was actually going on, even in families growing up in the 1950's. So it's been going on for some time.

Assemblyman **Bates**. But you could actually have a liveable wage during those times, you could have one wage earner, you could afford to have someone stay home. Now, that's completely gone.

Senator, I know you want to move on, but I just wanted to make one last little comment, which I hope that you will take to legislation and I hope it will be adopted and you will consider the broader question. Which is, we need in this country a family policy, as you articulated, and we need to adopt a family policy. There's no reason why we don't, other than the forces that are out there that don't want that kind of thing to happen. But it is important for us to say that we are concerned really about the family, not just in a lot of rhetoric, but that we really want to make sure that a family can be good parents and good workers. We need to recognize the functions of change, people are no longer able to do it because the realities of the day have changed the dynamics. We need to look at those changes and look at those functions and figure out ways in which this country can provide for the people.

Senator **Dodd**. I am very interested in what you are doing to win support for your task force on the year 2000. I would love to see how you're setting that up and what issues you are looking at. Because that is the kind of thing you might try and promote on a national level. Some very good studies have been done in Maine and a few other states that have gotten a lot of attention, but——

Assemblyman **Bates**. Your state, actually, Connecticut is also pursuing similar ideas.

Senator **Dodd**. This year our state legislature had a package of around 20 or 30 bills that incorporated family policy bills, one of which was to establish parental leave for state workers in the state. But a variety of other ideas have been included as well.

My hope would be that we might not end up with a patchwork of bills. It would make so much more sense if we had some national policy that would not make it necessary to end up with differences State by State. If we could end up with something that was more of national policy, as you pointed out, as all of you have pointed out, it would make more sense in many ways.

Ms. **Picus**. If I could just comment on what you said when you talked about expense. First of all, I find it an embarrassment that we are the only major industrialized county that does not have a parental leave policy, and as you say, the largest single disadvantaged group in this country are our children. They are the poor people of the country.

When you talk about how expensive it would be, we have learned from the pregnancy Disability Act that although the same charges were made that it was going to be outrageously expensive, in reality it is not expensive. Projections indicate that providing parental leave also will not be expensive. You have to look at the cost of *not* doing it, of the costs both to the productivity of our country and the cost to the families and the children of this country. I talk to my entrepreneurial friends, particularly my small business women friends, and when I suggest this policy to them, they say, well, it just wouldn't work for them because they are small companies and because certain people in their company are so important that they couldn't afford to let the person go on leave for months. And I say, suppose this individual were a male and suppose that he were seriously injured in an automobile accident or had a heart attack. You'd give him six months leave and he would return to his job and you would have to adjust other personnel and work assignments, but you would not say that you can't do it. What does this indicate about our values as a society, when you say that because a woman chooses to be pregnant and to have a baby we don't have to treat her in the same way as someone who does not choose to have a heart attack or be injured in an accident. That to me represents what this really is all about, and I agree with what's been said here, that we do need a family policy.

A year ago I went before my colleagues on the Employee Relations Committee in the League of California Cities, with a resolution that stated this, and they ripped it to shreds, they tore it apart. Mainly, they were personnel managers and city managers from around the State of California. They said it's too expensive, we can't do it, we can't deal with it. Now they are lined up with me on this task force that we formed and are eagerly participating in how to make it happen, how can we do it.

Senator DODD. I am going to formally designate you today in charge of all small towns and cities across America.

Ms. PICUS. I don't know that they are going to love me.

Senator DODD. A small town out west.

Ms. MOORE. I just want to make one comment in closing. I want to say to you, obviously the national policy is the best way to go because California and Connecticut, under its leadership of Irv Stolberg, who I know very well, the very able leadership, are unique in the sense that across this country it is going to be very difficult to get any kind of parental leave passed in many of the states that many of my colleagues in state government and state legislatures resolve, and I think the national way, if we are going to have a policy to protect our most valuable resource, our children, it is going to have to start at the top at the national level.

Again, as I say, whatever we can do here in California, whatever resources, whatever information we gather, our panel will be very happy to make available to you and work with you as you move along in Congress.

Senator DODD. Thank you very much, and I should point out for the record, our speaker of our state legislature is Irv Stolberg, the President of the National Conference of State Legislators across the county. We tease him a lot about his travels. He moves around a lot up there and he takes a lot of ribbing from his colleagues in the state legislature.

Thank you, all three of you for being here this morning. I appreciate your testimony.

We are going to take a ten-minute recess so that the Senator can have a little leave and then come right back for our remaining two panels. So for those of you who have been waiting, it will be just a couple of minutes.

[Recess.]

Senator **Dodd**. I am delighted at this time to invite to our witness stand our next panel of witnesses, and if I mispronounce any last names, I expect you to appropriately reprimand me.

From the National American Wholesale Grocers Association in Los Angeles, we have Michael Burandt. He is also the president and CEO of the Alfred M. Lewis Company, a wholesale grocer. Ronald Huber, appearing for Michael Burandt this morning. He is the vice president as well of the Human Resources of Alfred M. Lewis Corporation.

Judith Fischer, is the vice president of the National Association of Women Business Owners. She is also the president of the RJ Associates, an executive search firm for accounting and financial professionals. She was elected a delegate to the White House conference on small business in 1986, and has just been selected by the Chamber of Commerce as one of the ten outstanding women in Los Angeles.

Congratulations for that high honor.

Phillip Toomey is from the National Federation of Independent Businesses. He is an attorney practicing in a small law firm, he is a partner in several small business ventures as well.

Ann Aiken is from Eugene, Oregon, attorney practicing family law in a small firm, also mother, I might add, of four children, including her five-month old that I understand is with you today. We hope you will remember this day, what's his name?

His name is Samuel Christopher. Christopher is doing well here today, we have a lot of Christophers around. I said to someone earlier, growing up I was the only Christopher I knew and now there's a proliferation. I would like to take credit for that, but obviously that's not going to sell very well in all those places.

Ann is going to describe her firm's parent leave policy and experience with clients that need parental need, and her successful efforts, I might add, on behalf of the parental leave legislation just passed in Oregon. I congratulate you for that.

Mary Ann Brimhall, is that correct, with the Candle Corporation in Los Angeles. Mary Ann is the Human Resource administration at Candle, a computer software company employing some 500 people. She is also testifying on behalf of the Nationwide Personnel and Industrial Relations Association, of which she is a member.

Lastly, David Warfield, vice president and Board of Trustees, Huntington Beach Union High School District in Huntington Beach, California; the father of three children himself. He has a great deal of experience with parental leave with that size of a family.

The Huntington District has offered parental leave to its employees since 1959. I would add, the district employs over 700 teachers and serves 17,000 students. We will look forward to hearing about the District's 20 years experience with parental leave.

I want to thank all of you for being so patient here this morning. Think of it as an opportunity because you have been able to hear from other witnesses that have come before you. These hearings go on usually a bit longer than we anticipate and I hope I haven't inconvenienced you to any great degree. But I look forward to hearing from you this morning and making your testimony a permanent part of this record as we continue this effort around the country to solicit ideas and views on this legislation, and related legislation.

So we will begin with you, Mr. Huber.

STATEMENT OF RONALD HUBER, NATIONAL AMERICAN WHOLESALE GROCERS ASSOCIATION, LOS ANGELES, CA, REPRESENTING MICHAEL BURANDT

Mr. **Huber.** My name is Ron Huber, I am with Albert M. Lewis, a company which distributes food, services and other products to grocery stores and restaurants in California, Nevada and Arizona.

Our company is a member of the National American Wholesale Grocers Association, NAWGA, and the National Grocers Association, NGA. I am testifying today on their behalf as well as that of my company.

A substantial number of firms in the food industry and industry in general have long made provisions for employee leave in circumstances involving pregnancy and childbirth, personal and family illness and other factors. My own company has negotiated a policy with its employees which provides a minimum of six-weeks leave upon the birth of a child. An additional two weeks leave in the case of a birth by Caesarean section. Health care benefits are continued for the employee during this period.

In addition, and perhaps of most interest to this community, our contracts contain a provision which stipulates that no leave-of-absence request shall be unreasonably denied for an employee with one or more years of service.

Mr. Chairman, as an aside, I am please to report that not a single incident has arisen in which an employee's request for leave has been denied. The voluntary flexible system does work.

In addition to the provisions already outlined, our employees are permitted to extend leave periods through the use of accrued sick leave and vacation, and we currently have an employee on maternity leave who has elected to do so. It is important to note that such policies have been widely developed without the compulsion of government legislation.

Mr. Chairman, with all respect to the collective wisdom of you and your colleagues, it is just not possible for Congress to decide for each of America's millions of employees which benefit is the most important to them. Companies are not alike, all workforces are not alike. By ignoring the differing economic and business circumstances facing individual firms through the imposition of newly mandated benefits, Congress would inject itself and its judgments into the employer-employee relationship to a new and unprecedented degree. Having once started down the slippery slope of mandating benefits, Congress would find itself obliged to enter into a host of decisions best left to individual companies and the employees who work for them.

At a time of belt-tightening among this country's businesses, the enactment of legislation which would impose significant costs on employers, would be devastating. In fact, it is quite likely that many people currently employed would find themselves taking an altogether unexpected, unwanted and unavoidable leave, that of unemployment.

Both as an employer and as a father, one of whom is named Christopher, I can say that the goals of this legislation are worthy, yet, Congress must recognize that not all employees are alike or are all firms economically capable of providing all forms of employee benefits for society as judged to be desirable. I urge this committee and the Congress to resist the entreaties of the well-intentioned proponents of compulsory mandated leave benefits and permit market forces to expand the many alternative work schedules and benefit arrangements which have appeared with increasing frequency in recent years.

Thank you, Senator Dodd, for your courtesy and I will be pleased to answer any questions that you might have.

Senator DODD. Thank you, Mr. Huber, for coming. I realize this was for you sort of a last minute effort you had to fill in for someone else, but we are very grateful to you for being here this morning.

Ms. Fischer, we welcome you, and congratulations on the high honor.

STATEMENT OF JUDITH FISCHER, NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS, TARZANA, CA

Ms. FISCHER. Thank you very much, it is an honor to be here, sir.

I am a small business owner in Tarzana, CA, very small. I have five employees. In fact, it is most propitious that I am here today, my receptionist research lady just returned after six weeks maternity leave, and if you think about that, sir, that was 20 percent of my work force.

I am also a parent of two children, neither of whom, by the way, are named Christopher. One is 19 and one is 18, and 20 years ago I did face discrimination in the work place.

I am the vice president of the National Association of Women Business Owners. We represent more than 3,000 women owned businesses around the country, and chapter active in 40 cities. I appreciate the opportunity to be here today.

Previous statements have very articulate spoken to the critical need, the personal need and the crisis. The need is clear, the issue before us is the how, not the why or the if. NAWBO believes the overall answer to the issue of parental leave really lies in a combination of a minimum standard of guaranteed leave and a voluntary flexible system which gives employers and employees a variety of options from which to choose.

The key elements include, NAWBO believes that every parent should be able to take time off to have or adopt children or care for seriously sick children without the fear of losing his or her job, and without facing discrimination against women of child-bearing age. Any government requirement in this area should be limited to a fair, minimum standard such as a six-week unpaid leave for those events, with the right to return to that job. The minimum standard could even be extended below the now-designated 15 employees.

Legislation beyond the minimum should include Congressionally favored incentives to encourage employees to experiment with and to provide more extensive benefit packages for employee parents. And my very favorite, Congress should not exempt itself from requirements it imposes on private employers. Small business is the major employer of women. Almost 60 percent of employed women work for firms of 500 or less, and approximately 40 percent of women work in firms of 100 or less. Small business provides most of the first employment opportunities for the nation's workers. In fact, small business generated most of the net new jobs in the economy from 1982 to 1984, 76.2 percent.

At the same time, the economic realities for small business are far different from large business. Training costs for new employees are significant expenditures for small businesses, both in terms of job training time required for each new employee before he or she is fully productive, and the time lost by supervisory and other employees in training new employees. Much of the benefit of this training is actually enjoyed by larger businesses, since employees tend to move relatively quickly to large businesses at higher salaries, reflecting in part the training they received in that small business.

The SBA's own estimate for mandated care indicate a cost to business of over a billion dollars a year. It cannot be simply assumed that what is feasible for large business can simply be required by small businesses as well.

Some of our members believe that government should not be in the business of mandating benefits at all. Business should and could take on these responsibilities with a flexible system which gives employers and employees more and varied minimum leave applicable to as many as possible. Voluntary options could take into account the different size of businesses, their varying dependency on employees, the mix of supervisory and non-supervisory, the varying needs of employees at different stages of their own careers or in different kinds of jobs or as their own family requirements shift.

We urge you to look closely at the existing legal barriers to family-oriented benefits and ways to encourage such approaches as flex time, part-time work, flexible benefit plans which allow employees to bank benefits in exchange for others. The use of temporary disability insurance to fund leave, the utilization of other insurances to fund leave economically, and most importantly, improve child care options for both healthy and sick children.

We urge you to examine federal employment tax and other credits and the feasibility of spreading the benefit costs between the employer and the employee, and the removal of existing barriers to effective use of Cafeteria Plans and Dependent Care Credits and Assistance Programs.

As business owners, we are concerned about the human and social issues. We value our employees and we want to do what we can to attract and most importantly, to keep them. We also believe that working with employees to ease the conflict between work and home will make them more, not less, productive. We urge you to measure the legislation you pursue against the potential benefits and the potential cost to business productivity. Does the proposed legislation fulfill the needs of the employee who wants to be both productive and promotable at work, and to nurture and rear children successfully. Does it fulfill society's interest in our children, the future citizens and employees on which our nation's future depends. Does it further the interests of our society in strong businesses, able to create jobs and compete successfully in an increasingly competitive business climate.

Thank you.

Senator DODD. Thank you very much, Ms. Fischer.

Mr. Toomey.

STATEMENT OF PHILLIP TOOMEY, NATIONAL FEDERATION OF INDEPENDENT BUSINESSES, MANHATTAN BEACH, CA

Mr. TOOMEY. Good afternoon, Senator.

I have submitted written testimony and I don't intend to repeat it. I do intend to make some comments, and most of my comments are based upon some of the testimony I heard earlier.

You know, anyone hearing Mr. Lenci's testimony, no matter how hardened they might be, has their emotions pulled. The sincerity and the vulnerability of that man as he sat here and explained his life story is something that touches everyone, and I want this subcommittee to understand that it touches small business owners as well.

I agree with the Senator that that is a story that the American people can identify with, but I would also suggest that there's another American story that the public can identify with and it's as deserving as well of being told, and that's the American story of small business enterprise.

In the last five years in this country we have seen an economic explosion unprecedented in our history. It's an explosion that is not reflected in any other of the European countries or industrialized countries that everyone keeps comparing our benefit packages to. It is the story of the American entrepreneur and the individual who is willing to take those risks to become his own boss and become an employer within the community.

I want to make it clear as I speak today on behalf of National Federation of Independent Business and on behalf of the one major company in which I am a principal, Office Communication Systems, that this is not a story or a hearing for a bill pitting business against the family. Most small business owners are families and most small businesses which I have had the opportunity to deal with, represent or become a part of, are family businesses. The needs of a family are uniquely in the mind of the small business owner at every stage of the proceeding. I believe that most small business owners recognize this and make a policy of reasonable accommodation for those employees.

There are certain costs which are unique to Office Communications Systems that I would just like to take a brief moment and take a look at in regards to the 18-week leave. The employees at Office Communication Systems are represented by a union. The company in its attempt to expand business and to provide future jobs for new employees, took the time to go out and enter into a collective bargaining agreement with the Communication Workers of America, so that we would have the opportunity to bid on and work on union-controlled jobs. That union came in on behalf of the workers and negotiated a fair package of wages and benefits. However, as part of that collective bargaining agreement, they limited the amount of time that a temporary employee may stay on the job, and that limitation is 60 days and that is a standard limitation in most collective bargaining agreements.

The reason for that 60-day leave is so that the more permanent employees can maintain their job positions and are not job-insecure. If an 18-week type of situation legislation was mandated upon Office Communications, we would have tremendous expenses, and I would like to explain that.

First, we would not be allowed to have a temporary employee fill an employee's slot. OCS is a high technology company, which is reflective of the small business of the future. We are involved in an area that has constant evolution in technology and in installation procedures. In order for an employee to productively contribute to the OCS environment, there's substantial on-the-job training. A person can come with basic skills, but there are substantial after-hire, post-hire job training skills that must be taught. Those are taught at the expense of the company.

If we had to replace for 18 weeks one of our employees, we would not be replacing that person with one temporary, but because of our collective bargaining agreement, we would be replacing that person with three temporaries. We would lose all of the training costs involved, we would lose on our productivity curve for that employee. In addition, at the conclusion of each one of those periods that temporary employee would have to be terminated. He would then become eligible, or she would become eligible, to file a claim for unemployment insurance benefits. Those benefits would be charges against our account and would be an additional cost of doing business.

The small business environment works on a very small profit margin, and in most of the jobs we are involved in, it works on a bid process as well. We take a job, we estimate the number of hours it is going to take to complete that job, at regular pay, and we submit that bid and we are bidding against other small businesses and large businesses. Some that have larger profit potential, some that have smaller profit margin, who are competitively in there.

If someone was to leave our job, all of the training costs come out of the profit and in addition we can't use overtime help because the same problem exists. If we use the overtime help, the employee would have to produce 150 times the normal production workload in order for the job to come in on budget and on time. This simply is not the case.

We constantly look at the European experience and we are constantly comparing American parental leave to that of other industrialized countries. I would suggest that an appropriate comparison is the number of jobs that those European countries have been able to produce. Margaret Thatcher is in the United States right now. Ms. Thatcher's comments about the American entrepreneurial spirit are very clear. I would suggest that before any steps are taken to mandate any benefits, including paid parental leave to a small business, that we take a look at the small business experience which is uniquely American and how it will affect small businesses.

I feel very privileged to have the opportunity to speak. I feel very privileged to listen to people such as Mr. Lenci in his testimony. However, what I suggest is a more appropriate policy, one of reasonable accommodation.

As the small business environment expands, as the economy expands as a result of small business, there are going to be more job opportunities, and if Mr. Linci's testimony is accurate, as to the conduct of his employer and conduct such as that is let out in the general area of education to the media, education to the print, education through hearings like this, I would suggest to you, Senator, that that type of conduct is going to be taken care of, because those employers will simply find their employees going to other jobs, to other employers who are offering more competitive packages.

One of the primary problems with a small business, in addition to having to pay money out and competition and government regulations factors, doo-da, doo-da, and that we are wearing four different hats at any one particular time, is keeping, training and maintaining competent employees. If I lose a cable technician and she has been on that job for a considerable period of time, and I lose her because I don't have a reasonable accommodation policy, I have to sustain a substantial business loss, it's dollars and cents.

I suggest that reasonable accommodation is the appropriate way to go, not a mandated federal benefit. Thank you.

Senator Dodd. Thank you very much.

Ann Aiken.

STATEMENT OF ANN AIKEN, THORP & DENNET, EUGENE, OR

Ms. Aiken. Senator, thank you. I feel very privileged to be here this morning. It was quite an education to listen to the people who came before me and I am very please to be here at the encouragement of my law firm and small business in Oregon.

I bring to you a couple of different perspectives, one of which I would like to start out with that Governor Goldschmidt signed on June 12, 1987, Oregon's Parental Leave Legislation. It allows 12 weeks with an employee to return to work without any threat of losing that job. It also provides some accommodations for business in the sense that we have a notice provision that allows parents to give 30 days notice except in emergency situation. It is a far-reaching bill, and as the Governor said in the statement that I brought to you from his office, that it is very pro-family, it recognizes the changing demographics of society.

In addition to that, it is fair to business because it allows the leave to be unpaid as well as with notice. I am very proud to bring that from Oregon, particularly in the light of the fact that the recent years we have had an economic disability because of our reliance on the wood products industry and we have had difficulty in our economy and despite the issues that were raised in the races, despite the pledge to economic growth, he found this to be an important leg of his economic program. And in addition to that, is making child care coordination a part of his economic development office. It is important that I think other states learn that you can combine the family and the business setting and work to accommodate those needs.

Oregon rallied with business position employees-employers, democrats and republicans, to bring the legislation to the forefront and I would suggest that this serve as a model for what you are trying to do with your Senate legislation.

Secondly, I am a mother of four children and I have practiced actively throughout my maternity period and my time off. I have been able to take off my time with parental leave policies in two different law firms, one firm had four members and the firm I am presently with has eight members in the firm, with twenty-five support staff. The accommodations and opportunities afforded me have made me a tremendously loyal employee, made me an active employee and when I needed time with my family and needed to accommodate the situation that I faced, they were there. They were there not only because I individually was able to be an effective employee with my firm, they were there as a policy to enable other employees in my firm to have that same opportunity.

The people who are unrepresented here today are the folks who didn't get six weeks off, who didn't get eight weeks off and who certainly didn't get four months off. They maybe got two weeks off and they were subtly warned that they had better be back to their position or they would lose their job. They are people that could not be here today because they couldn't even take the time off to be with their baby, much less being here to testify. For those folks, I would like to say the following word. You are asking for an employee to fail, you are asking for someone to go into a job setting with sleep deprivation, being up two or three times at night with a baby and trying to make the job functional for the employee and for the employer. And you are looking at turning around and have that employer look at an employee and say, you are fired, you just couldn't cut it after you came back.

Those people not here today because they are fighting to keep their jobs or they have given up and they are returned home.

Interestingly enough, we had the executive director of the Lane County Medical Society testify that as a very small, from under the 15 minimum for the applicability of the Oregon law, she preferred to have four months for her maternity leave enunciated in the bill because six weeks simply wasn't enough for the individual to come back ready to go to work and able to be a productive employee. She preferred to have the four-month, temporary employee trained and adequately providing the services in her position, in her office, rather than someone who was only able to take off six weeks and came back to work in a difficult position.

A couple of the issues you raised earlier, I would like to address. First of all, the way the legislation is written there's been testimony that it will discourage the hiring of women of childbearing years. Interestingly enough, no one has pointed out that men can be the father of children from early on until their 80s and 90s, as been demonstrated in any number of cases. So it is hard to tell under the Oregon legislation, the father will be able to take off time and certainly in this situation who can know when you hire a gentleman whether or not that individual is going to be the parent of a child.

So that's an issue that tends to be raised as being discriminatory against women, and I would suggest a suspicious argument.

Interestingly enough, I do family law and I do a tremendous practice with various difficulties and problems in families. What came to light with my practice is the tremendous increase in nonsupport and average difficulties in chasing down fathers who would like to just abandon their children and not supply support.

If you bring parents in raising their children early on, if you give the father the opportunity to take a week or two weeks off for their child and certainly economics are going to dictate whether they would be able to be off or not, you are going to bond that parent a lot quicker. And when we see the individuals in the office looking at a divorce, you are going to find two parents active in trying to maintain the child for the future as opposed to one parent who is very bonded with the child and the other parent who sees himself just as a paycheck and losing interest in that child. I have seen that countless times in my practice, and I would like to think that if we would encourage fathers early on to be part of this process.

Finally, I think I would like to point out that Rebecca Webb who testified earlier, has gone on to great glory. She is with the No. 1 radio station in Portland, and her experience and those experiences expressed by a number of women who came before the Oregon legislature, made it a very proud day when we signed that bill into law. I would like to think that as a state we are sort of a laboratory for the true concept of what federalism is all about and I would like very much to have you take back the legislation and statement from our governor as a true test of what this is all about.

Senator Dodd. I will do that. Your Governor happens to be a good personal friend as well. I was at his home recently out in Oregon. I was there with Les AuCoin. The Governor sent a very nice letter to me on July 16th, about the legislation and I will include that in the record today to follow your testimony.

Thank you very much for being here.

Mary Ann, we thank you for coming and are glad to receive your testimony.

STATEMENT OF MARY ANN BRIMHALL, CANDLE CORP., LOS ANGELES, CA

Ms. Brimhall. I am a Human Resource Administrator working in employee relations and recruitment for a leading computer software company in the Los Angeles area. We currently have employees numbering just over 500 domestically. We do have international operations also.

My own work in Human Resource area and my interactions with members of the Personnel and Industrial Relations Association, whom I am also representing here today, have confirmed my belief that as personnel people we have a unique perspective on employer/employee issues.

In recognition of this, I have been working very closely with Assemblywoman Moore in California, and they have utilized me and other members as they draft and redraft AB 368, and I have given testimony twice in Sacramento regarding those bills.

It is because of my own experience and conversations with professionals that I am here today. I chose to focus more on the sick leave provision of the bill, as the provisions for child rearing and for adoption have, I feel, been sufficiently addressed, although I have feelings similar to them as people who have spoken before.

My fellow Candle employees and I are very, very fortunate in that we have a president who believes that product quality and production are dependent wholly on our people, and their contributions to the organization as individuals with unique skills, ways of thinking and personalities. Similarly, our employees are viewed as people with unique needs, some of which cannot be directly related to work. As we provide rewards in various forms to acknowledge the very real human need for on-the-job reinforcement, we also have very liberal leave and benefits packages to meet out of work needs, realizing that persons who are comfortable outside of the working environment are more likely to bring their best to us when they come to work.

If we are thinking of an employee with a severely ill child, if this parent comes to work out of fear of job loss when there's an ill child at home, we may have an employee body there, but their mind is somewhere else, not where it should be. It should be with their child. A company would lose more from having a worried parent taking up space, but not being productive, than to hire a temporary worker or shift duties among workers until the child is well or that arrangements for long-term care have been made. This has been used very successfully in my company.

We have an employee at my company right now who is the mother of a beautiful eight-year-old boy who has leukemia. The employee often has to take off time to be with her son at the beginning of chemotherapy treatments which tend to be long-term, and to take him to various doctor appointments. Although she holds a very vital position in our company, we have to depend on her a lot, we have made her hours and her days flexible enough to allow her to take off time when she does take care of her son. In return, she works very, very hard for us, and is there on weekends. She brings her child with her if he is too ill to go to school, but well enough to come in with her. We know that when she is at work she is giving 110 percent, and I feel that is because we are giving her 110 percent.

I have been with my corporation, Candle, for three and a half years and I have seen the company almost triple in size. In addition, we receive an ever-increasing number of awards for sales and product quality. I believe that our success is entirely due to the dedication of our employees which is largely a result of our company's dedication to the people, human beings with human needs.

When we are speaking of working parents, one of these needs is to care for their children when they are severely ill. Senate bill 249's sick care provision is not unduly punitive toward employers as a compromise measure at all. It also gives employees the assurance that they will not be in effect "punished" through job loss because they have the great misfortune to have a child who is very ill, which is very unfair.

Human Resource professionals in general are not in favor of mandated benefits, believing that in most cases industries can tailor their benefits to their workforce and industry needs. But we cannot any longer ignore the very real fact that there is no longer a dividing line between work life and homelife. And Senate Bill

249, along with the bills here in California, 368, are workable compromise bills to meet the needs of both employers and employees in an equitable fashion.

I would like to add that I don't think parental support ends at any age or any time. My mother works for the federal government and she was very enthusiastically given a leave day today so she could come down here to hear me speak, so that's an example of the federal government being in support of parenting.

Senator **Dodd**. We are delighted she is here, as well.

We will now welcome David Warfield.

STATEMENT OF DAVID WARFIELD, VICE PRESIDENT OF BOARD OF TRUSTEES, HUNTINGTON BEACH UNION HIGH SCHOOL

Mr. **Warfield**. It is a pleasure to be here.

On 6/23/59, the Huntington Beach Union High School District adopted a maternity leave policy for its female employees requesting to be absent from duties because of pregnancy or convalescence following childbirth. The policy was broadened on 3/13/73 to include a similar leave for adoption purposes for a maximum of one school year. Concurrently as a result of legal challenges to the traditional school district maternity leave policy, the district included maternity disability as qualifying for paid sick leave benefits, treating such disability in the same manner as any other type of illness or injury. In summary, a female employee who is pregnant has several options; use paid sick leave benefits while "disabled" just prior to delivery, during delivery, and normal recuperation following delivery or request a maternity leave without pay beyond and including the medically disabled period.

Over the past 30 years the district has had an average of four employees taking advantage of the maternity/adoption leave and/or utilizing paid sick leave benefits, less than 1 percent of the total staff. To the best of our recollection no male employee has taken advantage of the adoption leave. The district has experienced no major problems or hardships in conducting school business while employees were on maternity leave. The services of qualified substitutes have always been available so that the education of our young people has not been interrupted and the day-to-day functioning of the district has not suffered any detriment.

The district has always cooperated in granting maternity/adoption leaves and including maternity disability under paid sick leave benefits because it has been the philosophy of the district to hire and retain the best qualified employees.

I would like to broaden these comments by quoting from the California Commission on the Teaching Profession report, Who Will Teach Our Children?

Discussing the need to attract and retain new teachers it states:

> A true profession must offer individuals the opportunity for growth in their careers and in their lives. As an employer seeking to attract the best and brightest young minds to careers in education, school districts must recognize, in addition to providing professional and economic incentives, these new teachers are also parents and must be provided with the security that they can enter the profession knowing full well this new employer gives more than rhetorical lip service to the importance of a family unit. The fact is, the more learning takes place when the family is strong. We teach this to our children and support it in our employment practices.

Your bill supports this concept and would help, in my opinion, a school districting good parents as teachers.

Senator DODD. Thank you very, very much.

I kind of regret in some ways that I didn't have more time with this panel because we get to the essence of it here. We have heard the testimony from others which I think is tremendously helpful, but I seek out the business groups that come to Washington. I seek out the opportunity to speak to them and address the question of parental leave and child care related issues.

Let me state this for you very briefly. I would prefer that we were not here. I would prefer that the way this done was in the way some of you have suggested, and that is through business. I wish that the marketplace forces, what they may be, would work in a way that would accommodate these questions without having to get involved in legislation. But regrettably, and it isn't just on this issue, I think we go back over the years where any time the public entity has suggested that the private entities do certain things, there's always been a certain degree of hostility. Although some businesses long before anything became law, were doing that which the government was requesting.

We don't pass laws for people who obey the law, not that we are talking about legal or illegal behavior here. Laws are adopted and passed to try to get others to do what they refuse to do, for whatever reason. And a couple of things come to mind. Mr. Huber, in your testimony here this morning, on Page 5 or 6 of your testimony, and I will quote from it, you say that not a single incident has arisen in which an employee's request for leave has been denied. And I understand that. What I get a sense of what you are saying here, is that while the parental leave policy, the minimum standards are being met by your company in this particular area, that that's where we ought to leave it. It has worked for you, it hasn't been any significant disadvantage to the company in terms of the adverse economic impact, to grant leave requests. Am I correct in that as well?

Mr. HUBER. There is certainly an economic impact, but we have been able to make reasonable accommodations because up until now, and I would second what has been said about the cost of training temporary employees, et cetera, but the requests have been reasonable and we have been able to make reasonable accommodations.

Senator DODD. Let me get to this. I understand the temporary hire is expensive, but it seems to me the business has made a decision in your case, that it is less costly to hire someone to come in temporarily and do the job than it would be to lose that permanent employee who has spent years, working with the business, acquiring that kind of knowledge that a temporary employee could not possibly accumulate. And so while there is a cost associated with a temporary hire, there would be a larger cost to the business were you to lose that permanent employee. Is that a fair statement?

Mr. HUBER. Oh, that is certainly true and I can see an instance where we would be willing to extend an extended approved leave far beyond four months in the case of and individual who was making what you might term a unique or substantial contribution by their efforts. I can think of an instance where one of our dispatchers who carries tremendous knowledge within their memory, was given considerable time off because he had a family emergency that would have torn him apart otherwise.

Senator DODD. On the point of the small business exemption that we have will be 15 employees or fewer. Ms. Fischer, you have the smaller firm. I agree with you about what Congress ought to be doing. As a member of the Rules Committee of the Senate, I can tell you we have a child care facility in the Senate and many Senators, including this one, have a parental leave policy that has been a long time in my office for staff. But it should be obviously something that is not done on an individual basis but across the board as well. I appreciate your bringing that point up. I wish I had brought it up before you did, in a sense.

But let me try and explain something for Mr. Toomey as well, because your testimony touches on this. I have found that where you have either highly valued employees or small firms where people know each other, usually on a first-name basis, there is little or no difficulty with the parental leave parameters that I have described in many cases. If that dispatcher's child has leukemia and is dying, there is no question that your firm, Mr. Huber—I wouldn't question for a second that your firm would insist that that dispatcher be given all the time necessary he needs to be with that child and family.

The same would be true with a newly born infant, to allow the worker to cope with complications and getting things squared away. In small firms, where people know each other, highly valued employees are worth a lot to the company. I don't think there is any doubt about it.

But where I see an issue here is when you have the large firm and it is someone down on the factory line and they may not be the most highly valued employee in terms of their contribution. They don't know the boss, they probably don't even know the supervisor in many cases. And they have a child with leukemia and they need the money from that job maybe in some cases more than the family who is further up the line economically who may have put some away or they have greater resource capacity to weather the hard times. The bill that I am talking about is designed to try and reach that situation, because I am not really worried about the smaller firm. They will take care of their own, as we all would do in that situation.

Recently the father of a woman on my staff died, and I just said, Cathy, look, take whatever time you need. She is valuable to me, has worked with me for seven years, and she does an important job in the office. So, we can accommodate her leave. I know Cathy because we are on a first-name basis in the office. My operation is small enough, I've only got 35 or 40 people in my two offices working for me. But if I didn't know Cathy and she was down the line somewhere when her father died, I frankly would never know about it. So this bill is designed to try and fill in there where people don't know each other. I do appreciate the testimony about the impact on smaller businesses and so forth. But I think it is important that we understand that a lot of people don't have that kind of insulation, a natural protection that we all engage in when we know people or are dealing on a first-name basis or with highly valued employees.

Ms. **Aiken**. Senator, you are exactly right. Where I became actively involved as an attorney with representing a woman who worked for the State Accident and Insurance Fund, a large insurance corporation in Oregon as an underwriter, and basically they had a policy that had generally not been followed where you could have four weeks prior and six weeks after, but most people took the ten weeks after the birth.

After it was too late for her to take the four weeks prior, they gave her notice that she could only take the six weeks. Ironically, she had a difficult birth and she had a colicky child, not just a little colic, but screaming all day long. No one able to take care of that child and the doctor wanted her home with the baby. A screaming child with the requirement from the State Accident and Insurance Fund that she go in every two weeks and get letters from the doctor saying the baby—she wasn't ready to go back to work. With all the difficulty they put her through, it was an extremely stressful situation and they ended up terminating her and then rehiring her realizing that was an inappropriate action, didn't give her enough notice to get adequate child care and she ultimately out of frustration and lack of what was in the workplace, had to quit.

She went before the legislature and talked about her situation and the fact that there were three or four other employees still pregnant and watching to see what would happen in their instance.

An employee who was loyal, valuable and very delighted to go back to work, basically walked away from that position rather than compromise her child.

Mr. **Toomey**. Senator, I don't necessarily agree with your comments and I am very concerned about small business. Right now, and I will use my business as an example, OCS, if an employee needs a reasonable accommodation for any reason, be it parental leave, be it for care for a sick parent, himself, be it for care for her child or his child, be it for other personal problems that arise. By the way, OCS has 200 employees. Reasonable accommodations are made for that person based upon the employer and employee sitting down and there being a mutual understanding of what actually is happening.

In other words, when the employee leaves the job there is a void that's there. Perhaps it can be filled with a temporary and perhaps it cannot. Perhaps it can be handled by other workers working overtime, perhaps it cannot. But that imposes upon the employer his understanding and responsibility, to the employee his understanding and responsibility, as to his contribution to the team. And it is as simple a concept as that.

The idea that the larger companies are what you are after, if that's what you are after, then exempt small business whatsoever. The federal government has provided statutory definitions for small business, exempt small business. If what you are really after——

Senator **Dodd**. The number of 15 was not chosen out of the blue, that's a standard number of employees used under federal statutes.

The definition of small business, I mean you can move that one around almost anywhere you want.

Mr. TOOMEY. Absolutely. Some small businesses can have two or three people and do ten or twelve million dollars a year in business.

Senator DODD. What has the NFIB done in surveys on maternity leave? Now, we have a lot of states with maternity disability leave and I presume the organization has surveyed what the impact has been on small business. What is the result?

Mr. TOOMEY. I am not privy to whatever information on that survey would be done. I would request permission from the chair to allow me to submit that documentation when I obtain it.

Senator DODD. I would like you to, because that is obviously a set of statutes that has been around for a number of years. And one of the arguments raised, in fact, by the Chambers and others, was that maternity leave statutes would be devastating to small business. Yet, in states with maternity leave such as Colorado, Washington, Montana, you have a long list, the growth in firms with fewer than 20 workers has gone up. In Colorado, it has gone up almost 40 percent since between 1976 and 1984. Washington, has had maternity since 1973. Colorado passed it in 1972, I might add. Washington, in that time, has experienced a 25 percent growth in small firms. Montana has had maternity leave since 1975. Small firms in Montana have been upped almost 23 percent in that same period of time.

There's been a lot of evidence that despite maternity leave statutes, which are not unlike what we are proposing here, the growth of small firms or small business has not been stunted as a result of the legislation.

Ms. TOOMEY. Senator, I will have to submit whatever information and I would respond.

One point that I forgot in my comments, I got carried away. There are additional NFIB members who were unable to present testimony today and we would request permission from the chair to include their written testimony in the record, if we can submit it.

Senator DODD. How many people are we talking about?

Mr. TOOMEY. I assume it's less than ten.

Ms. FISCHER. Senator, I would like to make some additional comments, if I may. As a small business owner, some of this simply comes down to dollars and cents. There is only so much available funding for benefits. Right now even as a small business owner with five employees, we have medical, dental, basic life insurance, which we instituted primarily to be competitive in the marketplace. If we did not provide those benefits, we were less attractive to those employees that we desired to attract to our business.

So that made sense to us, it was an investment in our future. Additionally to that, most of our employees are young, under 30 years old. Some of them have desires not so much in a family way at this point, but rather to continue their education. As an employer, I am required to provide certain mandated benefits, then I must turn around and say to my employees, I am sorry, there's no more money left to provide educational benefits, I am sorry you can't take any kind of sabbatical, I am sorry I can't provide you with additional leave time to do other things. There is a limited pool of dollars available.

What we have found, the National Association of Women Business Owners, is that in order to remain competitive as a small business, even under that 15 number employee mandate, we have to provide what big business or bigger business provides in order to be competitive, to attract and more importantly than attract, the most critical, to keep those employees that we value.

Senator DODD. Your organization, of course, supports a federal minimum standard for parental leave.

Ms. FISCHER. That's correct.

Senator DODD. Would you agree with me—and I will ask all of you here to comment—that what we are really talking about here, it seems to me, is a philosophical problem more than a question of whether or not this is a sound concept, right? That is with whatever changes you want to make to have it work right, whether or not you wait a year before employees qualify, taking care of those unique situation. But what we are really arguing about here is the notion of the federal government mandating a program. That's the fundamental problem here, is that what you hear?

Ms. FISCHER. That's what NAWBO contends, yes. It's the mandated portion, not the concept. We are wholeheartedly behind the concept of family leave. We call it family leave, we don't even call it parental leave because we are talking about the generation that we are sandwiched between, our children and our parents.

Senator DODD. But your organization supports a federal minimum standard?

Ms. FISCHER. That's correct. That's the very basis just like a minimum wage——

Senator DODD. You lowered the number of employees in a firm, you get down to five employees?

Ms. FISCHER. That's because the largest number of women are employed in businesses with under 20 employees, so by exempting at 15, we really are not reaching the largest population that we are trying to reach with this legislation.

Senator DODD. I understand. We have a larger number of employees exempted and a little more time; you have less time and fewer employees exempted but——

Mr. TOOMEY. Senator, the NFIB's position would also be that they are opposed to the mandated federal benefits. One other, talking philosophically here, one other concern which impresses itself immediately upon me is the federal government stepping in and almost taking the place of the collective bargaining process that's involved between the company and the union. This is not a situation in OCS's particular situation, it is not a set of circumstances where it's the employer versus the employee. This is a situation where we do have a bargaining unit of the Communication Workers of America who are representing the employees in regards to wages, conditions of employment and benefit packages.

Senator DODD. I am told about 80 percent of the firms that belong to the NFIB would be exempt under this legislation.

Ms. FISCHER. That is correct. In California the legislation actually exempts ⅚ of the employers.

Senator **Dodd**. Statistically, the 80 percent of the firms who are members of NFIB have 15 employees or less.

Mr. **Toomey**. Yes, but Senator, the same way that if we want to play the statistics game, Mr. Lenci that spoke earlier probably does not bear out statistically with what is going on in the labor force, although his concerns are very real and I expressed my feelings as to his testimony.

So whether or not we've got 80 percent of the small business environment, or 80 percent of NFIB exempted, to me is not a relevant discussion. I am still here representing those other 20 percent, if your figures are correct. My concerns are still the same.

Senator **Dodd**. I don't question that at all, and as I say, I would argue that, in fact, with 15 or fewer employees I would feel fairly comfortable while that's 25 percent of the workforce, there's a greater likelihood that people in that size firm are more than likely going to have things worked out for them. Because that's the nature of smaller firms. When you get larger firms, that's where the difficulty comes in, as I see it, that's where there a more serious problem.

Mr. **Huber**. Senator, I would like to add one comment on the question of collective bargaining. In addition to being the vice president of Human Resources for my firm, I am also management's chief spokesman in contract negotiations. Our leave policy, the basic leave policy, and I gave you the bare bones of it, but it was bargained collectively with the unions that represent our employees.

We have all heard a great deal about so-called givebacks or takeaways or whatever term has been used to describe the fact that industry has suffered a series of economic hardships over the recent years. But firms that have collective bargaining agreements have sat down and they have made the best deal that they could make on behalf of their employees.

Senator **Dodd**. I don't question that.

Mr. **Huber**. The thing that really bothers me personally and the firm and the associations that I represent, is the fact with a body of mandated benefits at the federal level, then there is no opportunity for accommodation. There is no opportunity for a contract provision that the cost-of-living clause will not be operative for the term of the agreement.

We have had situations where operations would have been closed down had not the union leadership recognized that something had to change, that we would not longer be profitable.

Senator **Dodd**. I recognize that. Of course, we are dealing, too, in a situation where you only have about 18 percent of the workforce in this country that is organized. When you get down into a lot of the job areas where there are predominately women, the workforce is less inclined to be organized. You start looking at the problems that are related when you see the statistics that some 10,000 children, maybe 25,000 children in this state under the age of 10 are being arrested for serious crime. I will guarantee you those are children in many cases that are coming from either family situations where you have a single-parent, or a family where you have both parents but they are unemployed, or they are both working but there is little supervision. Often, there were difficulties during the early years and you can track that in terms of drug abuse later on and a lot of the like. We have the First Lady of our land with the "Just Say No" program, and last year the Congress adopted a massive drug bill in the fall.

All of these things we end up having to deal with later on. And yet in many instances, were we to provide or at least try and approximate a better environment for those children in the early years, we could have headed off problems. Head-start is now 20 years old in this country. It was fought vigorously by many people who thought it was terrible there would be a place where children would go when their parents allegedly should be home taking care of them. We now have a generation of head-start children. And out of the same neighborhood in this country, if you track what happened to the head-start children in those early programs, and the children that were not, the statistics are just glaring. It is beyond just coincidence at this point. The data show that where children had had that kind of care and nurturing, albeit in a setting like a classroom or a center they did better. I am not saying it approached the kind of care and attention a mother or a father can give a child, but it was certainly better than nothing. And often, it helped the parents do a better job.

The low incidence of drug abuse, of crime, and the high incidence of completion of minimum educational standards, of literacy and the like, just goes right off the chart for head start children. And for children in those same neighborhoods who did not have the advantage of head start, the statistics are just terrible. Now, there's 20 years of experience with these things.

I am not suggesting that this is going to be the panacea. Anybody that stands before you and tells you that should have their head examined. As I say, I get sick and tired of the speeches about violence in our streets and drug abuse. Some are great speeches, but when you start to really focus in on where you might really make the difference on these things in the early years, there's no support and it's pretty frustrating.

Mr. **Huber**. Senator, I spent four and a half years before I was involved in business, I had a criminal defense practice. I spend four and a half years working at the Kenyon Juvenile Justice center on the corner of 76th and Central in the middle of Watts. I had the opportunity to work with a lot of young children down there who found themselves enmeshed in our institutional system as a result of problems within the family.

Now, I share your concern and I share your concern about where the family is going in this country, but I don't believe that 18 weeks of unpaid leave, not only is a panacea, I don't even believe that it addresses the immediate problem.

Ms. **Fischer**. It's not an 18-week problem, or issue. It's an 18-year issue. It's the whole issue of family. A child does not stop having a need at 18 weeks just because he——

Senator **Dodd**. Don't misunderstand me, we are talking about one piece of this puzzle.

Ms. **Fischer**. What I am suggesting is, we need to be looking in a far broader context.

Senator **Dodd**. We are, but this is one piece of it, parental leave. And I promise you I am going to give you a bill you can really support in a couple of weeks, when we introduce the Comprehensive Child Care Bill as well.

Ms. **Fischer**. Okay, good.

Senator **Dodd**. And there are a variety of other things, but this is one piece of it. You can't take a sick child and put it in a day care center and you can't take a newly born infant and put it in a day care center. You can't take a newly adopted child and put it in a day care center. What we are talking about here is this one piece, an important element in that first bonding that goes on, or that real tragedy where the child is sick and there's no place else for them to be.

We have heard the testimony from physicians and others on how important it is that there be that time for parents to be together, so I am fully sensitive to the fact that we've got a larger problem here. But my experience has been when you come up with these big comprehensive bills, you scare everybody off. So I am back to the old piece-by-piece approach to this thing, and this is Piece No. 1.

This panel I would like to stay with longer, but we have one more panel to go and I don't want to keep them waiting any longer. I will probably have some additional questions for you, particularly for those of you representing small business. And Mr. Toomey, my statistics come from the Small Business Administration on increased percentages of small business in states with maternity leave. But if NFIB has other statistics to counteract those or counter those, rather, I would like to see them and have them.

Mr. **Toomey**. I will obtain whatever statistics NFIB does, and then I will put them together in comparing the contrast, as long as you will include that in your record.

Senator **Dodd**. Thank you all very much for coming, very helpful.

Our last panel, the most patient panel, I would ask to start to approach our table. Anita Gallegos. How did I do, close?

Ms. **Gallegos**. Right.

Senator **Dodd**. Anita Gallegos, from the California Healthy Mothers and Healthy Babies Coalition. She is also the Director of the March of Dimes, a steering committee member of the Healthy Mothers and Healthy Babies Coalition, the vice president of the National Organization of Adolescent Pregnancy and Parenting. So we are particularly anxious to hear your testimony here.

Sonia Schneider, co-president of the National Council of Jewish Women, formerly a constituent of mine, I might add, in Connecticut. You can come on home, all is forgiven, Sonia, whatever you did back there. She is a working mother herself.

I might say the National Council of Jewish Women has been tremendous. Every hearing we have had, they have had witnesses come forward and talk with us, in Boston, Washington or other places. We thank you for the tremendous work that the Council is doing, a tremendous help.

Mark Ridley-Thomas is the executive director of the Southern Christian Leadership Conference. Mr. Ridley-Thomas is an expectant father. I gather you are looking forward to a new arrival in your family. Congratulations on that. We are interested in both your professional and your personal views on this.

Mr. **Ridley-Thomas**. You will get them both.

Senator DODD. You will bring a special insight to our testimony here today.

Why don't we just begin with Ms. Gallegos, with you, then Ms. Schneider and Mr. Ridley-Thomas. Again, whatever you have prepared, I promise you it will be made a part of the record. If you want to abbreviate it or just extemporize your remarks, that will be fine.

STATEMENT OF ANITA GALLEGOS, CALIFORNIA HEALTHY BABIES COALITION, DIRECTOR OF MARCH OF DIMES, LOS ANGELES, CA

Ms. GALLEGOS. Senator Dodd, I am here today addressing you primarily as a member of the California Coalition on Healthy Mothers-Healthy Babies, and I thank you for this opportunity to express our views and support you in this very important legislative piece that you are trying to put into the big overall puzzle.

California Healthy Mothers-Healthy Babies Coalition is just one of forty state coalitions across the country that's putting together a network to try to get everybody that's working towards improving the health of the mother-to-be and the newborn, and all going into the right direction or walking to the same drummer. And to this end, these professional, health professionals and other individuals have committed their time and resources to this state-wide effort to have mothers and babies in California reach the highest achievable level of health and well-being.

So what we are trying to do daily is focus attention to comprehensive material on infant care and by this means preventing infant death and disability and to provide coordination and cooperation among the public, private and voluntary organizations interested in giving the babies of California a healthy start in life.

As a member of the March of Dimes nationally, we are also working along with Healthy Mothers-Healthy Babies nationally and also as you mentioned, as a member on the national organization on Adolescent Pregnancy and Parenting. We have been working towards improving the outcome of pregnancy to all alter the statistic that every two minutes another American baby is born with one or more birth defects.

We support your proposed bill that would facilitate allowing, for instance, a mother-to-be who is at high risk to take time off to improve the chances of having a healthy baby. If due to complications prior to the birth of her baby a working mother is ordered to modify her work schedule or her bed rest and she is denied leave, even without pay and she has the peace of mind of having this job security, she is forced to chose between that job security and her baby's life. And we see this, especially working with the March of Dimes, daily and working with parents such as we have heard today.

If she is going to follow her doctor's orders and risk either quitting her job or losing her health insurance, then she would risk her baby's life. I am in contact daily with a mother who is living over at Cedar Sinai Hospital to be with her baby because she did not take the time off to be off her feet for the times prescribed by her doctor.

The second reason that we support your legislation, it is the positive impact that it would have on infants that we see that are born with birth defects. As the March of Dimes nationally, it is very involved with the International Authority on Child Development and Parent Child Relationships, Dr. T. Barry Brazelton, and I quote that he said that even a normal child, the stage of development in the mother-infant relationship during the first four months is crucial, and unless a woman can be with her baby during this special bonding time, she may feel completely—she may never feel completely successful in caring for him.

In parent-infant relationship where the inner-action isn't successfully completed, Dr. Brazelton says that he has seen infants that fail to thrive socially, mentally and even physically. So job security is family security, and when a child is hospitalized and the balance within the family structure is affected, and it is extremely important for that parent, such as the Dreyfusses this morning, to be with that child for their own peace of mind, job security is family security.

So speaking for the mothers and babies in the State of California, I am very pleased to be here today and we offer our support to you.

Senator DODD. Thank you very much, and I appreciate the fine work you are doing as well.

Sonia, we thank you for coming, and for being so patient. I would say thank you to all three of you, again the patient panel, for sitting through this. But I hope it has been helpful as well for all of you to hear some of the earlier testimony. I will be glad to receive your testimony. Whatever you have prepared will be made a part of the record.

STATEMENT OF SONIA SCHNEIDER, COPRESIDENT OF NATIONAL COUNCIL OF JEWISH WOMEN, LOS ANGELES, CA

Ms. SCHNEIDER. I will present my prepared text as part of the record.

This was short notice for me, but I would like to add that my job as president for a Los Angeles section of National Council of Jewish Women is my non-paying job. I also hold a paying job and I have two children, one who was born in Connecticut 12 years ago, and one who is a California boy, 6 years ago.

I sympathize with both sides, business side and the parents side, since I am also in business.

I would like to bring to your attention the fact that on February 19th, at an earlier hearing on this issue of the Family and Medical Leave Act, you have heard from the Director of National Council of Jewish Women Center for the Child, who presented the findings from the first stage of the center's study entitled Mothers In the Work Place. This study examined the medical and parental leave benefits provided by employers in 100 communities across the country. It was conducted by NCJW volunteers in the State of California in ten communities as well. Here in Los Angeles I served as the study research coordinator.

I would like to very briefly summarize some of the findings from this survey done with employees in California. Some of these findings might be relevant to the panels' observations that preceded me.

In each case we look at occupational groups within a particular company or organization because frequently policies and benefits vary for workers employed in different positions with the same employer. NCJW surveyed 454 groups of employees representing approximately 200,000 workers, 64 percent of whom are women.

Our survey shows that only 16 percent (one-sixth) of the groups working firms with 20 or fewer employees, have leave policies set by standard policy. In work places with over 20 employees, 62 percent of the groups had standard policies regarding the leave. Although 56 percent of the groups in this smaller firms are offered eight or more weeks of disability leave for maternity only, only about 34 percent of those had some additional parental leave. For groups of employees working for larger companies, 78 are offered the eight or more weeks of maternity leave, while only 32 percent got additional parental leave.

I know I am throwing a lot of statistics, but what I would like to point out, is the employee is pretty much at the mercy of the company for which they are working, there are no standard policies.

The figures for continuation of health benefits during maternity leave, which is an important feature of S.249, are lower, even. The group of small employers in this group 27 percent of the group surveyed here in California get continued health coverage, 27 percent. And 38 percent of the groups working for the larger companies.

We also looked at policies for parents of sick children. Again using this same division of small and large employers. Among small employers, only 28 percent of groups are allowed by a set policy to use paid sick days to care for sick children. And 38 percent are prohibited from using sick days for that purpose. 34 percent of the groups working for small employers are often allowed to take such time, only 34 percent. Among the larger employers group, 32 percent are expressly prohibited from taking that time off for that purpose, 43 percent are often allowed and 25 percent are allowed to use their sick days for ill children by set policy, on 25 percent are allowed by company policy.

In California and throughout the nation, NCJW's survey found that there is a lack of formal policy granting employees parental leave or leave to care for sick children. We actively and strongly support the Senate and House bills designed to rectify this problem, and address the critical needs of working families in this country.

We again thank you, Senator Dodd, for all your help in this issue, and I thank the subcommittee for giving me this opportunity. We believe that this bill is one of the most significant pieces of family legislation to be brought before Congress and we will continue to promote this package. I can't wait to see the next one, since child care is an issue that is close to our heart. It's part of this survey, pages 2 and 3, will give—I can get you the statistics for your next bill, too, Senator.

Senator DODD. Thank you very much for the help, and those statistics are helpful, as well.

Mr. Ridley-Thomas. Thank you for being here.

STATEMENT OF MARK RIDLEY-THOMAS, EXECUTIVE DIRECTOR, SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, LOS ANGELES, CA

Mr. RIDLEY-THOMAS. Thank you very kindly, and it is on behalf of the Southern Christian Leadership Conference that I would like to express my appreciation for this opportunity to appear here today at this hearing, to support the Parental and Medical Leave Act of 1987.

On a more personal note, as an expectant father of twins, I take pride in advocating policies that make for healthy babies and strong families. Recently having had to face my wife being unexpectedly put on total disability related to this discovery of twins, I am deeply concerned about the protection afforded workers when such important family-related decisions arise. I think there are a number of salient points in this piece of legislation that point to a favorable condition for children and parents, thereby fostering wholesome family relations.

Previous witnesses have already underscored the issue related to the number of women now in the workforce, which is a stark reality that has to be taken into consideration. The second point, of course, is that of the United States of America being the only advanced industrialized nation that is so sorely lagging in its maternity/paternity leave policy. There are some 117 other nations in the world, not all of which are necessarily considered industrialized, who seem to care more about guaranteeing a certain kind of job security and quality of the environment, than protecting the business interest. It should be considered that the gross over estimation of the losses that will be experienced, the cumulative losses, are those that we have tried to look at and await as you do, information from the General Accounting Offices, to state specifically what, in fact, may be the case there.

Then we look at the fact that when you talk about the issue of recruiting, hiring, retraining those employees that would ordinarily replace individuals who go out of work or terminate their leave, the cost incurred there are significantly higher than that of those costs that would relate to allowing someone who knows the job to return after a specified period of time, in this instance, 18 months.

So I think the reasoning is—this is not to even begin to speak of the inestimable benefits derived from making the work environment one in which employees feel valued, and that seems to me to be part of the issue that we need to address.

For the employees of the Southern Christian Leadership Conference, which I am please to represent, we afford up to 26 weeks maternity leave, and I should hasten to add that this piece of legislation has inspired us to revisit our personnel policies to expand them in such a way that those instances that arise where parents have to care for an ill child are provided for.

I just simply want to say that this is a welcome contribution to policy discussions around the family. You will recall in the earlier part of this decade when we had the Family Protection Act, which in my mind was an attempt to make life more miserable for families by a way of taking government involvement and oversight out of the arena of family relations, that in many ways would have made protection of abused children and the like much harder to govern. It is unfortunate that the current administration's pro-family rhetoric is a veiled attempt to force women, in my mind, into the home and to increase corporate profits at the expense of working parents. It is a direct contra-distinction to this administration's view, Southern Christian Leadership Conference believes that in instances where there is a conflict, the quality of the life of employees should always supercede the maximization of profits.

Senate Bill 249 is an important step in making businesses more responsive to the needs of their employees, and it is for this reason that we applaud you, Mr. Chairman, for your leadership in proposing this socially progressive legislation.

In conclusion, I wish to quote from the preamble of the Family Bill of Rights as it encompasses SCLC's vision.

"Our Families, in their many forms, have the basic right to exist in a society which supports and affirms families rather than one in which families must battle to survive the society's attempt to undermine them. To accomplish this end, we must reshape and redirect our economic, political and communicative and social institutions in such a way that they provide a practical environment for the health, security and fulfillment of our families."

Mr. Chairman, as you refer to us as the patient panel, I am very impatient as it relates to much broader and more robust legislation that undergirds and protects families.

I thank you.

Senator DODD. Thank you very, very much.

Just a couple of quick questions for all of you, if I could.

Ms. Gallegos, you heard Dr. Siegel, I think you were here, talk about the advancement of medical technology, as that improves—contrary to what some might think—there is now a far greater reliance on parents. Medical technology has indicated that parental involvement is essential for the successful treatment of children. I wonder if you have seen this trend among the parents you are working with, as well?

Ms. GALLEGOS. Definitely, and because that is such a special bonding period, some of the hospitals, unlike Mr. Lenci this morning, let the parents, no matter how hooked up that new baby might be, let the parents touch it, talk to it, work with is and even with IVs all over that baby, are able to hold them. Because that special bonding period is very, very important, and because so many babies that are smaller weight now can live, they feel a lot of that nurturing is what makes is possible.

Senator DODD. Sonia, the survey is very helpful in this data that you have provided. How was that done, was it, how many firms, were they selected at random or how?

Ms. SCHNEIDER. Yes, we selected the companies and it was selected by the Center in New York, based on those companies which are most likely to have large numbers of women employed there. And they were 44 firms in the city of Los Angeles—in the Los Angeles area, I am referring to right now. Because that was the one I was project coordinator for. They were in manufacturing, communications, the utility, transportation, wholesale and retail trade, finance, insurance, business and professional, private households, personal services, health service. Of course, being in Los Angeles, the entertainment and recreational services, and government.

So it was pretty much across the board, but there were industries that we knew had large numbers of women employed in various different types of job categories, and basically what we did is go to the personnel departments and obtained the information directly from them. On some occasions we through employees, who then directed us to the personnel department.

Senator DODD. Are you planning on going back at all? I would be interested if you were, in trying to solicit from these businesses, particularly those that do not have parental leave policies or support child care programs and the like, what their absenteeism rate is. What are the comparative data among firms that do have it, to start looking at for the lack of a better description, the productivity issues? Again, I don't know how willing firms are going to be to reveal that kind of information, their turnover rates and the like. But the experience we have had in a limited way, and it's never been done, to my knowledge, on a scientific basis is that firms that have moved in this direction have found that it has been distinctly to their advantage economically. Individual testimony points out it works on a purely economic basis. In firms that have tried it, their productivity, absenteeism, turnover rates, have all been favorably affected. In fact, whatever the cost associated is with supporting some of these programs, has been just absolutely offset, and in some instances more than offset. The costs have been substantially offset by the inclusion of some of these programs, particularly child care.

It has paid for itself in six months, in some cases, in terms of identifiable improvements in the workforce. So I would be interested if you go back to survey some of these firms if you could compare some of that information. It could be tremendously helpful.

Ms. SCHNEIDER. Stage 2 and 3, which is independent of Stage 1, are being completed now, but Stage 2 involves going to women who work during their pregnancy and finding out how they perceive their company's benefits and parental leave and so on, and then at the third stage we go back to those same women after their child was born and find out what actually took place. What you suggest might be a Stage 4, which we haven't envisioned, but it might be a good idea.

Senator DODD. Let me get the bill passed before you get to Stage 4.

You have a personal experience as well?

Ms. SCHNEIDER. Yes, I would like to just give you an instance of where I know, that I personally can tell you what a difference, working for two different types of company, one that offers benefits and one that does not.

Twelve years ago I lived in Connecticut, before this bill was passed in Connecticut, and I had a managerial position for an international company, a branch office. This child was born, I worked on a Friday, she was born on a Saturday, prematurely. I had agreed with the company that I would take six weeks unpaid leave. Since the child was born prematurely, she remained in the hospital for four weeks, and the time that I was not with her visiting, I would go to the office to check on things, even though I wasn't supposed to be doing any walking around per doctor's orders, but I still did it.

Three weeks after my daughter was born, I got a call from my employer that I was not to bother to come back because they could not longer hold the position open. This was 1975. I proceeded to go to the Connecticut Commission on the status of Women, who was unable to do anything for me. And therefore sent me to the federal government under Title 9, which after over a year of litigation and much humiliating experience, because the employer manufactured evidence which was—the only word I can think of humiliating. I won the case and I had his company's policies changed nationwide, but I vowed that my daughter would not have to go through this.

As a matter of fact, that's when I joined NCJW because I knew they were advocates. Your bill is part of what Joy Picus said, my mission, and I hope my son doesn't have to go through it, either.

Senator **Dodd**. You can move back to Connecticut now.

Mr. Ridley-Thomas, I don't know if you were here earlier when I mentioned the particular problems of special needs adoptions where you have handicapped children, retarded children and so forth who are very difficult to place. I have been conducting hearings focused solely on adoption, and special needs adoptions have come up in the context of those hearings. And there is a renewed interest in minority adoption. In fact, there is a debate that goes on about whether or not non-minorities should adopt minority children. There are certain members of the black community that feel strongly about this. They go back and forth.

I wonder if you might just comment. I don't know if you have done any analysis on how parental leave might impact in your view or the view of the Southern Christian Leadership Conference on minority adoption, which has been a problem.

Mr. **Ridley-Thomas**. I think it would certainly stimulate interest, and I take note of the fact that just in terms of a rather personal and to some extent subjective view, an increasing number of persons, largely over 40 to 50, have become interested in adopting black children in particular, owing to the fact that they have been sorely neglected, not so much by adoption agencies, I am not arguing that, but generally speaking as one looks at who is getting adopted. These youngsters over a long period of time have not been, and this city, for example, the Mayor has been quite supportive of black adoption programs, room for one more is just an example of the local church. So I have seen a concerted effort on the part of interested individuals to become more conscious of this need. And in that regard, I would think that such policies at the work place would, in fact, make it more of a desirable option to chose, that is adopting a child who is in need of the kind of families that all of us presumably would like to have. Persons, employees, would be more favorably disposed to such an option if there were this kind of support from their employers.

I would want to say in addition to that, one of the concerns that I have, and I want to share it, is the distinction that in your deliberations you are prepared to make with the Senate Committee about not simply small businesses, but non-profit, small non-profits. As we think about how they may be impacted by such legislation. So I would hope there is room for negotiation on this issue of 15 against 25, or whatever else might be deemed appropriate. There are some distinctions that I think ought to be made and the dividing question, of course, is profit making.

Senator **Dodd**. Good point, and I don't know if we have given that a whole lot of consideration, but we will look into that. It will obviously be covered by this, it is non-profit as well as public sector-private sector, across the board.

Again, the patient panel is impatient about this issue. That is a better way of describing that situation, Mr. Ridley-Thomas.

I thank you for being here today. We will reconvene this hearing in Chicago on September 14th, and then Atlanta, which will complete a swing across the country to solicit opinions and views on this important subject matter.

We have also had a series of hearings in Washington D.C. and we will continue to try and build support. I find there is a lot of misunderstanding about this legislation among people who don't understand it as a separate concept apart from the child care issue. But there is a growing awareness and we are finding more and more support. We are also finding more and more support from industry and business, as I mentioned earlier, who in many instances have made some very constructive and positive suggestions on how this might work better.

I want to thank again the Mayor's office out here, we have taken up a sizable amount of space here on a Monday, and in City Hall. I want to thank Liz Savage from the Epilepsy Foundation who has been so very helpful. Diane Dodson, from the Woman's Legal Defense Fund was also helpful. I want to thank Nancy Mulridge from my office, whose parents have been here as well, witnessing this hearing, and Jason Isaacson from my office.

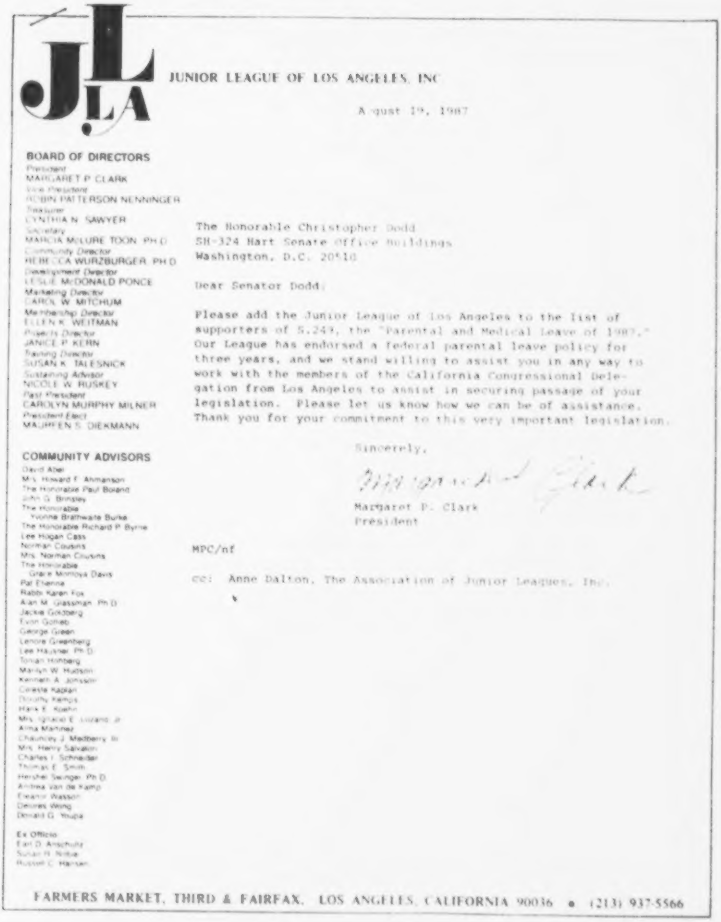
And last, but not least, I want to thank the Staff Director of this Subcommittee who does an exceptional job, the person sitting to my left here, Marsha Renwanz.

I thank them all for their willingness to be out here several days and their help in putting this together.

Ms. **Gallegos**. Senator, before you say it's adjourned, I would like to let you know that the Spanish language media was here, the leading newspaper in the country with Spanish language was here, and two of the TV stations. So it will be on tonight.

Senator **Dodd**. I would have conducted the hearing in Spanish. Anyway, we will continue this fight and we will win this battle.

[Additional material supplied for the record follows:]



JLLA

JUNIOR LEAGUE OF LOS ANGELES, INC

August 19, 1987

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The Honorable Christopher Dodd
SH-324 Hart Senate Office Buildings
Washington, D.C. 20510

Dear Senator Dodd:

Please add the Junior League of Los Angeles to the list of supporters of S.249, the "Parental and Medical Leave of 1987." Our League has endorsed a federal parental leave policy for three years, and we stand willing to assist you in any way to work with the members of the California Congressional Delegation from Los Angeles to assist in securing passage of your legislation. Please let us know how we can be of assistance. Thank you for your commitment to this very important legislation.

Sincerely,

Margaret Clark

Margaret P. Clark
President

MPC/nf

cc: Anne Dalton, The Association of Junior Leagues, Inc.

FARMERS MARKET, THIRD & FAIRFAX, LOS ANGELES, CALIFORNIA 90036 • (213) 937-5566

Margaret W. Brennan, President
Brian Moreau, Vice President
Monica Fredriksson, Secretary/Treasurer

MOTION:

Made by - Brian K. Moreau
Second - Margaret Brennan

WHEREAS - it is a fundamental goal of the Independent Union of Flight Attendants to promote the health and welfare of our four-thousand members, and -

WHEREAS - it is imperative to the career of Flight Attendants that each be able to enjoy the benefits of both parenthood and employment, and -

WHEREAS - in this year of wage and benefit givebacks in the airline industry, current maternity, paternity and medical leave provisions are not secure -

It is hereby resolved that the IUFA endorses and supports the passage of H.R. 925 and S.249, the Family and Medical Leave Act.

MOTION PASSED UNANIMOUSLY on July 2, 1987.

Independent Union of Flight Attendants • 849 Mitten Road Suite One • Burlingame CA 94010-9924 • (415) 692-6072/3/4

24

August 1, 1987

Marsha Renwanz
Staff Director
Subcommittee on Children, Families
Drugs and Alcoholism
639 Hart Building
Washington, D C 20510

Statement for the record on S-249
Family and Medical Leave Act
Hearings Monday, July 20, 1987

Statement by Grover H Ford, D V M and
Kathryn A Ford, Medical Technologist
6056 Painter Ave
Whittier, California 90601

Dear Senator Dodd,

In your opening remarks on S-249, Family and Medical Leave Act you stated that the most important group affected by this legislation was not present to testify The 25% of americans that are under the age of 18

Our son Jon, who was 12 years of age during his seven month battle with cancer, testified to the importance of this type of legislation prior to his death on January 27, 1987 His statement was in answer to one of his uncle's questions and we as parents did not know of this statement until the memorial service for Jon Jon was asked what meant the most to him through this ordeal His response was "that my mom and dad were here"

Those are the words of a 12 year old boy He spoke for the thousands of kids all over this country who are engaged in the battle for life with this dreaded disease

We as parents were fortunate in some ways but the impact that our sons illness had on our lives was horrendous One of us was with Jon 24 hours a day during his entire ordeal Initally we found that neither one of us could function in our jobs if one parent was not with Jon The medical insurance covering Jon was his mothers' insurance I quit work to attend Jon and his mother continued to work

Almost from the time of his admission to Children's Hospital, Los Angeles, our income was cut by greater than 50% What little savings and saleable assets we had were consumed Without the assistance of family and friends, Jon's older (14 yrs) and younger (11 yrs) brothers would have had to fend for themselves alot more than they did A year later we are just able to keep our heads above water financially

Fortunately, the hospital which Jon's mother works for was an understanding employer and allowed an extended leave of absence during the last couple of months of Jon's illness Ann's presence was absolutely essential during this time and allowed her the opportunity to be with Jon

Had we been put in the position of having to choose between job or the needs of our child there would have been no hesitation on our part to loose everything so that we could be with our child When forced to choose most parents will choose to be with their children There is enough pressure and stress associated with caring for a critically ill child that the significant additional pressure of having to choose between child and job must be eliminated

As Dr Siegel stated, the treatment of a child with cancer is a team effort involving the medical professional staff and family This team must include and involve the employers of parents with critically ill children

We do hope that our son Jon's testimony will aid in the passage of this legislation Jon knew how important it was for parents to be with their children when they are critically ill

Sincerely,

Grover Ford Ann Ford

Grover and Ann Ford, The parents of the late Jonathan Harrod Ford

Frances Longmire
4147 Tivoli Avenue
Los Angeles, CA 90066

July 27, 1987

Senator Christopher Dodd
United States Senate
Washington, D.C.

Re: Family Leave Legislation

Dear Senator Dodd:

I was asked to obtain statements in support of the proposed legislation concerning family leave of absence from work to present at the hearing in Los Angeles on July 20, 1987. I had the two enclosed statements, and the organization with which I am involved failed to tell me the location of the hearing. I am therefore mailing you the enclosed.

Very truly yours,

FRANCES LONGMIRE

STATEMENT OF LEO GARCIA

My name is Leo Garcia. I have been married for about 23 years. I work as an accountant for a private firm, and my wife works for the State. We have four children ages 22, 21, 19 and 4. We can't remember all the times my wife and I had to take turns taking off work to bring the older children to the hospital whenever they got sick, but we do vividly remember our youngest daughter. She was sick one time for almost 2 weeks due to a viral infection when she was just 2 years old. My wife had to bring her to the hospital and was later advised to stay at home with the child because of a high fever and to administer her medication according to schedule. In cases like this, you can't bring your child to a child care center or a babysitter, because it would infect the other children. Being absent three consecutive days would certainly affect her efficiency in the office, so I decided also to take turns for the remainder of days. I did not feel secure and was always bothered that I would lose my job because of taking so many days off. If anything happens to your child, God forbid, you will never forgive yourself for the rest of your life. We suggest that the federal government should do something to alleviate this situation. There should be a law that prohibits an employer from firing employees who are in a situation like this.

Dated: July 17, 1987

LEO S. GARCIA

STATEMENT OF FRANCES LONGMIRE

My name is Frances Longmire, and I have been a secretary for 22 years. I have a daughter who is almost 20 years old. I have been a single working mother for the last 18 years. I am now putting my daughter through college.

I was lucky in that my mother lives in Los Angeles County and does not work outside the home. Most of the times my child was ill, my mother took care of her. I was able to go to work, but since my mother lives 40 minutes away from my home, I was only able to see my child on weekends when she was sick. I was also forced to allow my mother to choose my child's doctors on many occasions, a situation with which I was extremely uncomfortable.

I was also lucky that, when my father was dying of cancer, he was in a hospital near my office, and I was able to visit him during my lunch hours. I could not visit him during the evenings, because I had to pick my daughter up from her sitter. Therefore, I could only spend a half hour at a time with my father during the last weeks of his life.

Many people are not as lucky as I was. They do not have family members who both live locally and have the time and willingness to take care of their children when they are ill.

I worked at one office where a woman was fired for talking on the telephone during office hours with the hospital where her seriously ill child was confined.

I have often conducted preliminary interviews of other secretaries. Whenever I recommend a secretary who has children, the employer invariably asks me, "Do her children get sick?" I always answer that everyone's children get sick. On several occasions, the most qualified person was not hired because she might take off too much time to take care of her children if they become ill.

There are two women who work for my present employer whose adolescent children have become involved with drugs, necessitating them to take time off work to discuss the problems with their schools and to take them to counselling. Both of these women almost lost their jobs because of these problems.

In my 22 years as a secretary, I have seen many secretaries and other office workers who were either fired or were severely reprimanded and put in fear of losing their jobs due to time they had to take off to take care of their sick children. Married women have the same problem as single mothers, as their husbands' employers are even less sympathetic about taking time off to care for family members. My employer told me that one day, a female employee called in to say she had to stay home with a sick child. He asked her why her husband couldn't do it, and she said, "He has to go to work."

My mother and stepfather are now 65 years old. My stepfather had a heart attack a couple of years ago and has other health problems, one of which will necessitate surgery in a few weeks. I have had to take time off work to be with my mother when her husband has been seriously ill and hospitalized. My mother's health is also deteriorating. She was in bed and flat on her back for a period of months two years ago due to a back problem. Her husband travels on business and cannot always take care of her.

In closing, I would like to say something to the United States government, and particularly to the so-called, self-proclaimed "pro-family" administration from the single working mothers of this country. You don't want us on welfare -- you want us to work and support our children. You won't give us comparable worth, which we deserve; you won't give us decent day care, which our children deserve; you won't enforce our child support orders, which we and our children deserve; you don't seem to care that many of us have no health insurance, which we deserve; and you tax us to death on the little that we can earn, which we don't deserve. Well, we have been raising and supporting our children under those conditions for years. It is very, very difficult, but it is not impossible. But don't take away our jobs because we take care of our sick children or parents, because that DOES make it impossible.

Dated: July 17, 1987

FRANCES LONGMIRE

County of Santa Clara
California

Commission on the Status of Women
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
299-3131 Area Code 408

March 27, 1987

Hon. Christopher Dodd
324 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Dodd:

On March 9, 1987, the Santa Clara County Commission on the Status of Women (CSW) voted unanimously to support S 249.

Job security provides an employee with the necessary mental attitude to cope with family illnesses or personal medical problems. The provision of continuing health benefit coverage is also very important.

Please keep us informed of the bill's progress, so that the CSW may continue to support S 249. The CSW also supports the companion bill HR 925.

Sincerely,

Wendy Denton

Wendy Denton,
Director

WD/NKM/riz

An Equal Opportunity Employer

Office and Professional Employees International Union, Local 29

1475 POWELL STREET
EMERYVILLE, CALIFORNIA 94608

Affiliated with AFL-CIO
Telephone 415-653-9614

December 7, 1987

Representative Fortney H. Stark, Jr.
House Office Building
Washington, D.C. 20515

Dear Representative Stark, Jr.:

OPEIU Local 29, at its membership meeting of October 21, 1987, adopted the following statement in support of the Family and Medical Leave Act (H.R. 925) and the Parental Leave Act (S. 249):

Workers of either sex should have the right to take time off to care for a new baby without risking their jobs or losing health insurance coverage.

Sixty percent of all working women have no maternity or parental leave policies available at their work place, despite the fact that 80% of working women are likely to become pregnant during their working lives.

The changing needs of today's families, brought about by the increased participation of women in the labor force, the increase in two earner families, and the growth in single heads of households, require new federal and work place policies to meet these needs.

No employer should be able to say to a worker that he or she must choose between having a child and having a job.

The issue of parental leave is not one of simple economics, but cuts to the core of our effort to nurture family life and build a humane society. The shallow economic analysis put forward by business fails to consider the cost of our current system. Parental leave, in the context of guaranteeing job security, is a basic social decision and is a benefit for future generations.

The Family and Medical Leave Act (HR 925) provides for up to 18 weeks of leave to either parent upon the birth, adoption, or serious illness of a child while protecting health insurance and job security. The bill also provides for temporary medical leave of up to 26 weeks to any worker unable to perform a job because of a serious health condition while protecting job security and health insurance coverage.

Office & Professional Employees International Union, Local 29 therefore goes on record in full support of the Family and Medical Leave Act H.R. 925 introduced by Representatives William Clay and Pat Schroeder and the Parental Leave Act S. 249 as introduced by Senator Christopher Dodd.

Page 2
12/7/87

We urge your strong support for this legislation.

Yours truly,

Phyllis Willett

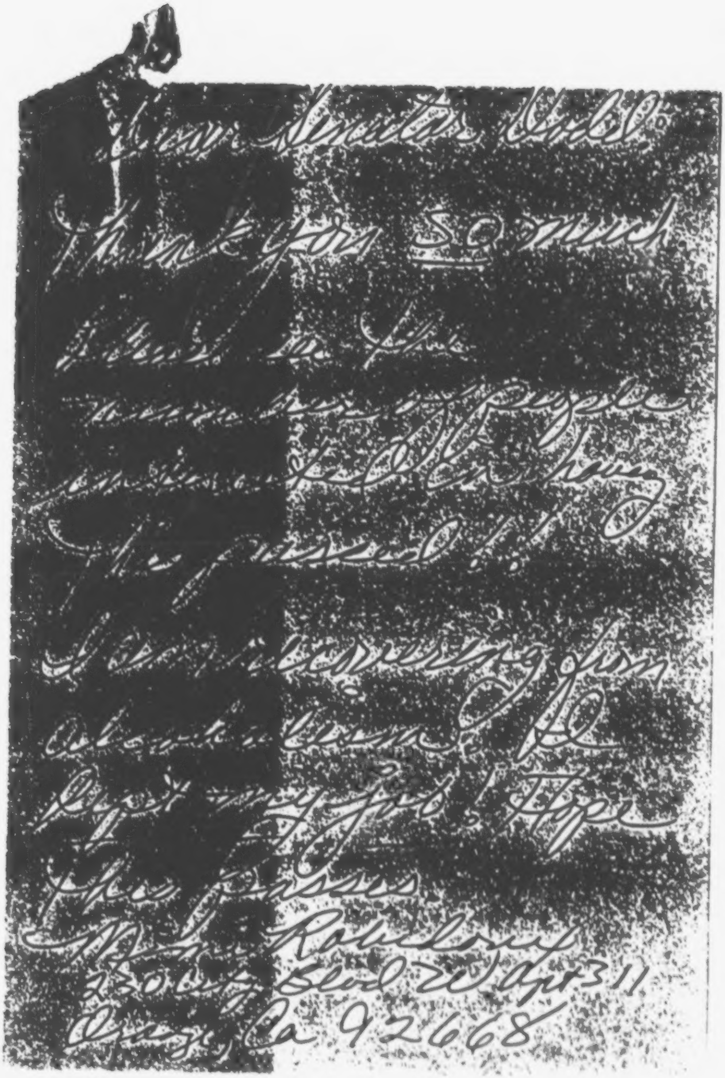
Phyllis Willett
Acting Secretary-Treasurer

PW:mev
opeiu:30
afl-cio

cc: Senator Christopher Dodd
Representative Patricia Schroeder
Representative William Clay
John Kelly, International President OPEIU
Margaret Butz, Eastbay CLUW Chapter

Letters sent to following:

Senator Alan Cranston
Senator Pete Wilson
Rep. Ronald V. Dellums
Rep. Robert T. Matsui
Rep. George Miller
Rep. Fortney H. (Pete Stark, Jr.
Rep. Don Edwards
Rep. Norman Mineta
Rep. Ernest Konnyu
Rep. Norman D. Shumway
Rep. Tony Coelho
Rep. Charels Pashayan, Jr.



Dear Senator Dole:

Thank you so much

[illegible] the

[illegible] of people

[illegible] having

this passed.

[illegible] concerning [illegible]

[illegible]

[illegible] Hope

this passes

M. [illegible] Rowland

2301 [illegible] Blvd 20 Apt 311

[illegible] Ca 92668

MEDICAL LEAVE BILL WOULD PROTECT PARENT'S JOB

SENATOR CHRISTOPHER DODD has introduced S.B. 249, the Parental and Temporary Medical Leave Act of 1987, which provides job protection for employees willing to enter treatment for alcoholism and drug dependency, thereby removing a major barrier to those individuals seeking treatment. Moreover, the parental leave component of S.B. 249 offers a parent the opportunity to participate in the treatment process and to provide support for an adolescent child who may need alcohol or other drug treatment services. Representatives of four major groups in the alcohol and drug abuse field have publicly commended Senator Dodd for his initiative in removing a major barrier to those individuals in need of alcohol and drug abuse treatment. The four groups include the Legal Action Center, National Association of State Alcohol and Drug Abuse Directors, National Council on Alcoholism and the Therapeutic Communities of America.

	TO: SENATOR DODD RE: SENATE BILL 249 THE UNDERSIGNED ARE INTERESTED IN HAVING THIS BILL PASSED.	* DATE SIGNED	
1	[illegible]	4/18/87	
2	[illegible] Dasta	4/18/87	
3	Edward [illegible]	4-18-87	
4	[illegible]	4-18-87	
5	Carol [illegible] RN	4-18-87	
6	Anita Armstrong RN	4-18-87	
7	Lisa [illegible]	4-18-87	
8	Robert [illegible]	4-18-87	
9	Sandy Jones	4-18-87	
10	Ann [illegible]	4-18-87	
11	Mary Jones	4-18-87	
12	Christine [illegible]	4-18-87	
13	Theresa [illegible]	4-18-87	
14	[illegible] Smith, RN	4-18-87	
15	[illegible]	4-18-87	
16	[illegible] RN	4-18-87	
17	Nancy Mitchell	4/18/87	
18	[illegible]	[illegible]	
19	[illegible]	[illegible]	

MEDICAL LEAVE ACT OF 198

PAGE 2 - SENATE BILL 249

1	Paula Marshall	4-19-87	
2	Selena Mac[illegible]	4-19-87	
3	Cheryl [illegible]	4-19-87	
4	[illegible]	4-19-87	
5	Holly Maness RN	4-21-87	
6	Nancy [illegible]	4-21-87	
7	Lois Middleton	4-21-87	
8	Jenny Hendricks	4-24-87	
9	Terry Coniglio	4-27-87	
10	[illegible]	4-27-87	
11	Jan Garcia	4-27-87	
12	Tracey Davies	4-27-87	
13	Dodie Ryan	4-27-87	
14	Alicia W[illegible] LPN	4-27-87	
15	[illegible]	4-27-87	
16	[illegible]	4.27.87	
17	[illegible] Sparks	4-27-87	
18	[illegible]	4-27-87	
19	Louise Mumford	4-27-87	
20	Norma N[illegible]	4-27-87	
21	[illegible]	4-27-87	
22	[illegible]	4-27-87	
23	Dorothy Ann [illegible]	4-28-87	
24			
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2347 Vargas Place
Santa Clara, CA 95050

June 13, 1987

Sir.

THANK You For your efforts on S 249 (+ HR 425) I'm behind you 200% + have sent letters to my reps. (Cranston, Wilson + Mineta) in support. Please advise me of the status of these bills

Thanks,
Nancy B Sriant

5/30/87

Dear Honorable, Senator;
Christopher Dodd, please,
I hope you pass the
family medical relief
Bill,

P.S. H.R. 925 and S. 249

Sincerely yours
Mrs Bessie Burke

S. Senator Christopher

USA 22

THE COMMITTEE ON WOMEN IN THE LAW
THE STATE BAR OF CALIFORNIA

[illegible] FRANKLIN STREET
SAN FRANCISCO, CA [illegible]
[illegible]

PO Box 291
Muir Beach, Calif. 94965
July 23, 1987

Statement of Christine Curtis
on behalf of
the Women in the Law Committee of the
California State Bar

Submitted to the Subcommittee on Children, Family, Drugs,
and Alcoholism of the
United States Senate Committee on Labor and Human Resources

Hearings on Family and Medical Leave
July 20, 1987 Los Angeles, California

Christine Curtis
member and Chair, 1985-1986

THE COMMITTEE ON WOMEN IN THE LAW
THE STATE BAR OF CALIFORNIA

555 FRANKLIN STREET
SAN FRANCISCO, CA 94102-4498
(415) 561-8200

June 24, 1987

Dear Subcommittee on Family, Children,Drugs and Alcoholism:

The State Bar Board of Governors, on June 20, 1987, adopted a policy requesting that all employers of attorneys in California establish written policies on pregnancy, parenting, and work time option plans- to accomodate childrearing with workplace demands.

Women now comprise 15% of all attorneys in California and over 40% of the law student population and new admittees to the bar. "The increasing number of women attorneys highlights the need to better integrate family life and legal careers, to make provisions for childbearing and childrearing in the interests of all. Maternity must be accomodated for women attorneys. Paternity leave or work variation plans may be desired by either parent to ease and enjoy child care and work." Christine Curtis, The Lawyer Parent, A Report of the Committee on the Women in the Law ("Part Time Legal Employment" panel State Bar Annual Meeting, Sept.14,1987).

As many law firms and other employers of attorneys have not yet adopted such written policies, the Bar adopted its resolution (Attach. 1), the Women in Law Committee prepared its pamphlet (Attach. 2), and the Committee is presenting the following programs at the Annual Meeting on these issues regrding the integration of women into the practice of law (Attach. 3). Copies of the pamphlet may be obtained by request from the State Bar Office of Bar Relations, 555 Franklin St., San Francisco 94102.

The need for such written policies was confirmed by the Women in the Law's meetings with representatives from law firms and a sole and small firm practitioner survey in 1985-86.

Sincerely,
Christine Curtis
Christine Curtis,
member and past chair
Women in the Law Committee

cc: Hon. Lisa Hill Fenning,
Chair, Women in the Law Comm.

THE COMMITTEE ON WOMEN IN THE LAW
THE STATE BAR OF CALIFORNIA

[illegible] FRANKLIN STREET
SAN FRANCISCO, CA [illegible]
[illegible]

1 The State Bar Board of Governors adopted the following resolution on June 20, 1987:

RESOLUTION ON
PREGNANCY, PARENTING, AND WORK TIME OPTION
POLICIES

WHEREAS, The Board is committed to equal opportunity in the legal profession regardless of sex;

WHEREAS, women compose fifteen percent (15%) of all attorneys and forty percent (40%) of all new admittees to the California Bar, and this increasing number of women attorneys highlights the need to better integrate family life and legal careers, to make provision for childbearing, child rearing, and work time options in the interest of the profession;

WHEREAS, the women on the Law Committee have identified the lack of workplace accomodation of parenting as a major concern of women attorneys, their firms or employees, and many men attorneys who deserve to participate more fully in parenting responsibilities;

WHEREAS, adoption of policies for pregnancy, parenting, work time options in the legal profession will encourage non-discriminatory access to and advancement in the profession, enhance stability in the work place, and recognize a dual role of lawyers as parents;

NOW, THEREFORE, BE IT RESOLVED THAT:

> The Board urges employers of attorneys to establish defined policies pertaining to pregnancy, parenting, and work time options for all attorneys in the State of California.

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2 Curtis, The Lawyer Parent, A Report of the Committee on Women in the Law ("Part Time Legal Employment" panel State Bar Annual Meeting",1987)

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3 The Committee on the Women in the Law wishes to inform you of its programs at the State Bar Annual Meeting 1987, on Saturday, September 19, 1987. Our schedule follows:

Saturday, September 19, 1987 - Oak Room, Century Plaza Hotel

9:30 - 10:00 a.m.

Committee Report
- This year's achievements
- Next year's challenges

10:00 - 11:30 a.m.

Pregnancy, Parenting & Work-Time Options

Forty percent of new admittees to the California Bar are women. Most are child-bearing age. All employers of lawyers must be thus prepared to deal fairly and effectively with the time demands of the pregnancy and child-rearing needs of their associates and partners. This program will address the challenge of drafting effective pregnancy disability and parental leave policies for lawyers.

Moderator: Christine Curtis, Member & Former Chair of Committee on Women in the Law, Former President of California Women Lawyers; sponsor of California Pregnancy law

Featured Speaker

Hon. Howard Berman - United States Congressman (D-Los Angeles); Legislative Author of California pregnancy law; Co-sponsor of Congressional HR 925, Family and Medical Leave Act (currently pending)

Topic: The politics of the pregnancy disability and parental leave policies.

Panelists

1. Marian Johnston - Deputy Attorney General, State of California; Attorney for Mark Guerra, Director of California Department of Fair Employment & Housing in California Federal case

   Topic: What California Federal v. Guerra means for women attorneys and their employers

2. Frank Quevedo - Vice President Affirmative Action, Beatrice Grocery Group, Member, Committee on Women in the Law, Former Member of State Bar Board of Governors.

   Topic: The management issues: What lawyers can learn from corporate personnel experience.

3. Rochelle Alpert - Partner, Morrison & Foerster

   Topic: How law firms can develop effective pregnancy and parental leave policies.

THE STATE BAR
OF CALIFORNIA

OFFICE OF BAR RELATIONS
Director JEFFREY T GERSICK

555 FRANKLIN STREET SAN FRANCISCO CALIFORNIA 94102-4498
(415) 561-8200

March 27, 1987

TO: State Bar Board of Governors

RE: Pregnancy, Parenting, and Work Time Options Policies Resolution (Attachment 1)

FROM: Report by Women in the Law Committee of the State Bar, prepared by Christine Curtis, member and immediate past Chair 1985-86 Christine Curtis

I. Issue:

The increasing number of women attorneys in California, 40% of new bar admittees since 1979, highlights the need to provide for and to define pregnancy, parenting, and work time options for lawyers.

This need has been confirmed by the Women in the Law Committee (yearly Committee report by Curtis, 1985-86, Oct. 20, 1986, p. 9) (Attachment 2). The Women in the Law Committee thus urges the State Bar Board of Governors to adopt this resolution which addresses the accommodation of parenting in the legal profession.

The resolution urges each work place of attorneys to establish defined - written - policies pertaining to pregnancy, parenting, and work time options so that lawyers and employers/partners can plan adequately for lawyers' desired family life and for continued provision of legal services.

II. Statement of Purpose:

A. Problem:

As put in recent articles about the issue of such work time accommodation for child bearing and child rearing:

"Men do not experience a conflict between their right to engage in reproductive conduct and their right to be free of discrimination based on sex at work. Women, however, have experienced such a conflict and will continue to do so unless pregnant workers are safeguarded from loss of employment opportunities during pregnancy." Kay, Equality and Difference: The Case of Pregnancy, Berkeley Women's L.J. 1, 27-28 (1985)

Creation of such policies will mean that:

"Women will no longer have to choose between a full profession and no family or a family and no real professional life."

Caviness, "New Born Options for Maternity Leave," Washington Lawyer, Jan./Feb. 1987, p. 44. (Attachment 3)

B. Women in the Law Committee Activity

The Women in the Law Committee has undertaken several efforts to address this issue:

The Women in the Law Committee confirmed the need for such pregnancy, parenting, and work time options by (1) a 1984-85 Women in the Law questionnaire survey of small firm practitioners, conducted under the auspices of California Women Lawyers (Committee member Washington) and (2) a 1985-86 in person survey of large firms in "managing partner" meetings in all five of California's major cities, by Women in the Law (Committee members La Mothe, Cranston, and Allston).

The Women in the Law Committee also placed two articles on the topic: Curtis, "For Equality of the Sexes: Pregnant Workers Still Have the Right to Return to Their Jobs After Maternity Leave," California Lawyer, June 1985, p. 15 (Attachment 4) and Freeman, "Writing Briefs and Changing Diapers," California Lawyer, September 1986, p. 16 (Attachment 5). It created a bibliography on the issue.

The Women in the Law Committee presented two Conference of Delegates panels on such work place issues--"Post-Hishon Employment Issues" in 1985 and "Part-Time Legal Employment" in 1986. For the 1986 panel (moderated by Committee member Fenning), the Committee prepared and presented a report on the status of and issues involved in pregnancy, parenting, and work time options (by Committee member Curtis) (Attachment 6). Tapes were made of both panels. For the 1987 Conference of

Delegates, the Committee will present a panel (moderated by Curtis) on "Pregnancy, Parenting, and Work Time Option Policies." The featured speaker will be U.S. Congressmember Howard Berman, legislative writer of the California pregnancy law.

The Committee also supports the legislation listed below.

C. *Other Activity - law firm surveys, bar association activity, and federal and California proposed legislation*.

This proposed state bar action is timely as the American Bar Association will soon have before it a resolution (Attachment 7) to support the current federal legislation, H.R. 925, "Family and Medical Leave Act of 1987," Congressmembers Clay and Schroeder. H.R. 925 creates a national policy of guaranteed pregnancy and parenting leave (as well as for other temporary disabilities). The ABA background includes a survey of law firm policies by Kanarek, vice chair of the ABA Career Planning and Placement Committee (Attachment 8).

This federal legislation would take the recent judicial victory of *California Federal Savings and Loan Association* v. *Guerra* (Attachment 9), in which the United States Supreme Court upheld the California 4-month pregnancy leave law, and apply that concept to pregnancy, parenting, and other temporary disability leave. On the state level, the California legislature has two measures under consideration: the parenting concept in AB 368, Assemblymember Moore (4 months' leave for parenting) and the temporary disability concept in AB 605, Assemblymember Waters (4 months' leave for any temporary disability). Also, SB 1613, Senator Marks, provides that an employee may take 5 days of his/her own sick leave to care for a sick child.

Finally, the Maine State Bar Association adopted a child care leave policy (May, 1986) (Attachment 10). In California, New Ways to Work, San Francisco, has conducted a survey of law firms (in San Francisco and Alameda counties); their survey is set forth in Feidan/Marks, *Negotiating Time: New Scheduling Options in the Legal Profession* (1986) ($12.50) (Attachment 11). Also, a law firm survey (Attachment 12) in Los Angeles (1983-84) was conducted (by Fenning, Committee chair). See also Yoshihara, "Easing the Way Back: New Mothers, Old Jobs," Los Angeles Times (March 1, 1987) pt. IV, p. 1 (Attachment 13) and Basler, "Putting a Career on Hold," New York Times Magazine (Dec. 7, 1986) p. 152 (Attachment 14).

In consideration of the above, the Women in the Law Committee requests adoption of the pregnancy, parenting, and work time options resolution.

III. Federal Impact: none.

MBC19/F

(Note: Due to printing limitations, and in the interest of economy, additional appendix material accompanying this statement was retained in the files of the committee.)

STROM THURMOND
SOUTH CAROLINA
COMMITTEES
ARMED SERVICES
JUDICIARY
VETERANS' AFFAIRS
LABOR AND HUMAN RESOURCES

United States Senate
WASHINGTON, DC 20510

August 17, 1987

Senator Christopher J. Dodd, Chairman
Senate Subcommittee on Children, Family,
  Drugs and Alcoholism
639 Senate Hart Building
Washington, D.C. 20510

Dear Chris:

Please find enclosed copies of statements and letters of various parties concerned with S. 249, the Parental and Medical Leave Act of 1987.

They have requested that these materials be made a part of the July 20, Los Angeles hearing record. It is my understanding the record was to be held open for the submission of additional views.

Your accommodation of this request would be greatly appreciated.

With kindest regards and best wishes,

Sincerely,

Strom

Strom Thurmond

ST/rzz

Suite 700
600 Maryland Ave. S.W.
Washington DC 20024

National Federation of
Independent Business

NFIB

STATEMENT OF

Philip A. Toomey
for

NFIB

Before: The Subcommittee on Children, Family, Drugs, and Alcoholism of the Senate Labor and Human Resources Committee

Subject: Parental and Medical Leave Act of 1987, S. 249

Date: July 20, 1987

Mr. Chairman, members of the Subcommittee, I am Philip A. Toomey. I am an attorney in private practice, and represent a number of small businesses. I am also a principal in Office Communication Systems (OCS), a telecommunication small business based in Santa Monica. I appear today on behalf of NFIB.

I wish to thank the committee for the opportunity to testify on the Parental and Medical Leave Act of 1987, S. 249. NFIB members with whom I have spoke, my small business clients, and the other principals at OCS have expressed a great deal of concern about this legislation.

OCS is a good example of the type of American ingenuity in small business which forms the backbone of our country. OCS was formed as a result of deregulation of the telecommunication industries, and the opportunities which were presented to small businesses in particular as a result of less government intervention and regulation.

OCS started with a concept and four individuals on the second floor of a garage. The initial capitalization for the business came from the savings and retirement plans of individuals who were willing to take a chance for the real American dream: being your own boss.

OCS, like most small businesses, has been, and is still, a company that has made provisions for its employees based upon the concept of "reasonable accommodation". When the opportunity to do larger jobs required affiliation with organized labor, OCS sought out and negotiated a collective bargaining agreement. The negotiation process resulted in benefits being extended to the employees which are reflective of the standard in the industry.

The type of technical work that OCS produces places particular demands upon the employee. OCS employees are usually formed into teams to complete the total project. Continuing evolution of technology and methodology in this area require substantial post-hire training. The learning curve is well beyond 18 weeks.

The ability of OCS to survive in the very same deregulated environment which gave rise to its birth depends on the ability of the employees to deliver cost-effective and time-critical work.

At the current time, an employee is allowed an unpaid leave of absence for any reasonable purposes, depending upon work load and job requirements. During such leave, the employee would normally be responsible for the cost of his health insurance.

OCS recognizes that the need for such leave may exist. However, the key is the responsible employee-employer relationship. In the small business, each employee is "key", and is not easily replaced. The employee must understand the impact of his decision on the business, and upon his fellow employees.

With the traditional short term absence, arrangements can normally be made by advance planning. However, longer term absence, such as currently proposed, creates expensive barriers.

Replacing the excused employee with temporary help is not a solution. Temporary persons even with basic skills are still subject to the described learning curve. It would be nice to say that OCS could just "find some other place" for the temporary, but because of seniority rights and the peaks and valleys which are typical of the industry, such is simply not the case.

OCS also faces a unique problem relating to the terms of its collective bargaining agreement. To protect the security of current employees, the maximum time any temporary may stay within the craft classification is 60 days. In other words, a temporary would actually become a "temporary replacement". The disruptions to the work flow and the team concept are obvious.

Overtime by other current employees is not an acceptable solution to the problem. First, our basic philosophy is against overtime.

Second, by far the majority of the productive labor done by OCS is pursuant to a bid awards. A labor cost is factored based upon the costs of providing labor at a set number of regular hours.

Once the bid is awarded, OCS usually will be paid only the contract price for the project. Due to the competitive nature of the business, the bid figures are usually quite precise and the margin for error slight. The concept of using overtime would require the employee, in order for the job to come in on time and within budget, to produce 150% of the normal hourly work. Practical reality indicates that this is not likely to happen.

Overtime costs are absorbed by the business, reducing profits which should be used for further expansion and job development.

Overtime penalty payments divert funds earmarked for future development to the completion of existing projects.

The cost of OCS providing employee health benefits while on leave would be approximately $360 per employee. Where the funds for such payment are to come from is unclear. The cost of employer-provided insurance is a factor which is included in every bid. However, if the employee is not working, he is not providing the generation of revenue necessary to pay such costs.

Another major no-so-hidden cost of the proposal is the charge to the business as a result of unemployment claims. That assessment is in fact a very real cost which would be extremely difficult and expensive to calculate into the job bid.

In a practical sense, we wonder which of our employees, or what workers in general, would be able to afford the leave as proposed. The provisions of Section 302(3) appear to become quite relevant when the discussion is cast in this light, and such a proposal for paid leave, I would submit, could quite possibly put OCS and other similar small businesses effectively out of business.

Mr. Chairman, I would submit that the goals of promoting economic security and stability of the family are important ones indeed. However, such goals are better met by the expansion of the employment market and continued stable economic growth of the country. Small business has been essential in both, and I would urge you not to enact a mandatory provision that charges small business a price it is unable to afford. This is an area more appropriately addressed by the free and reasonable relation between employer and employee.

I would request that other NFIB members who have not been able to present testimony today be given the opportunity to submit such testimony to the Subcommittee, and that it be included in the Record of proceedings.

Thank you for your consideration of my remarks.

0298T

Suite 700
600 Maryland Ave. S.W.
Washington, DC 20024

(202) 554-9000

National Federation of
Independent Business

NFIB

THIS LETTER WAS SENT TO
THE FULL SENATE W/ENCLOSURE

March 24 1987

0088S/mkb

Dear :

In the current debate over parental leave legislation, little attention has been paid to the impact such legislation would have on the states' unemployment insurance programs. Since small firms are particularly sensitive to changes in their labor costs, I wanted to bring this aspect of the discussion to your attention.

Most parental leave proposals dictate a period of leave with a provision for reinstatement of the employee to the same or a comparable employment position. If the employer hires a replacement for the employee on parental leave, then dismisses that replacement upon return of the permanent employee, this obviously has consequences in terms of the U.I. program.

Unless the temporary employee has U.I. coverage through an employment agency, the U.I. coverage is the responsibility of the individual employer. Should an employer dismiss the temporary employee, that employer would, under state U.I. laws, become a "base period" employer for purposes of U.C. benefit charges.

Even if, while substituting for someone taking parental leave, the temporary employee did not acquire enough wage credits to qualify for U.C. benefits, he or she may have accumulated additional wage credits from other employment sufficient to meet qualifying requirements.

Let us assume (following the provisions of the proposed federal legislation) that a temporary employee works 18 weeks, 40 hours per week at the federal minimum wage of $3.35 per hour (18 X 40 X $3.35 = $2,412 in wage credits). If we further assume that the temporary employee in question had no other wage credits from previous employment, he or she would still qualify for U.I. benefits in most states (see enclosed table).

In assessing the impact of parental leave on U.I., it is also important to note how each particular state allocates benefit charges to employers. Employees' benefits can be based on wages paid by more than one employer. Charges to employers are usually allocated in one of three ways: (1) proportionally amongst, the employee's past employers; (2) to the employee's most recent employer; or (3) in inverse order of employment, with the most recent employer paying first. Particularly with methods 2 and 3, temporary employees could prove much more costly than their mere wages would indicate because of the employer's greater potential for being assessed U.I. charges.

Mandating parental leave, or family and medical leave, benefits has a potentially devastating effect on the unemployment insurance program and on the employers who fund the system and pay the benefits. This is only one cost associated with mandating leave benefits; the many costs and inflexibilities of this approach make it unacceptable to the NFIB membership.

Sincerely,

John J. Motley III
Director
Federal Governmental Relations

Enclosure

4133D

POTENTIAL IMPACT OF PARENTAL LEAVE ON UNEMPLOYMENT COMPENSATION

State	Would temporary employee qualify for Unemployment Insurance?*	Basis on Which employers are charged
Alabama	yes	proportional
Alaska	yes	
Arizona	yes	proportional
Arkansas	yes	proportional
California	yes	proportional
Colorado	yes	inverse order of employment
Connecticut	yes	proportional
Delaware	yes	proportional
Dist. of Col.	yes	proportional
Florida	no	proportional
Georgia	yes	proportional
Hawaii	yes	proportional
Idaho	yes	employer who paid largest amount of wages
Illinois	yes	**
Indiana	no	inverse order
Iowa	yes	inverse order
Kansas	yes	proportional
Kentucky	yes	most recent 30 day employer
Louisiana		proportional
Maine	yes	most recent
Maryland	yes	employer who paid 75% of wages; if none, then proportional charge
Massachusetts	yes	inverse order
Michigan	no	inverse order
Minnesota	yes	proportional
Mississippi	yes	proportional
Missouri	yes	proportional
Montana	no	who paid largest amount of wages
Nebraska	yes	inverse order
Nevada	yes	employer who paid 75% of wages; if none, then proportional
New Hampshire	no	most recent***

New Jersey	no	inverse order
New Mexico	yes	proportional
New York	no	inverse order
North Carolina	yes	proportional
North Dakota	no	proportional
Ohio	no	inverse order
Oklahoma	no	proportional
Oregon	yes	proportional
Pennsylvania	yes	proportional
Puerto Rico	yes	
Rhode Island	no	proportional
South Carolina	yes	most recent
South Dakota	yes	inverse order
Tennessee	yes	proportional
Texas	yes	proportional
Utah	yes	proportional
Vermont	no	most recent
Virginia	no	most recent
Virgin Islands	yes	
Washington	yes	proportional
West Virginia	yes	proportional
Wisconsin	no	inverse order
Wyoming	yes	proportional

* 18 weeks x 40 hours x $3.35

** Illinois: 1/26 of total base period wages to a maximum of 1/26 of $6,000 per week of benefits paid; North Carolina: amount charged to an employer shall be multiplied by 12%.

*** New Hampshire: benefits paid following discharge for voluntary quit, discharge for misconduct connected with the work or refusal of suitable work will be charged to employer from whom the claimant separated after serving the disqualification.

Source: UBA, Inc.: 600 Maryland Avenue, SW; Suite #603; Washington, D.C. 20024. UBA is part of the National Federation for Unemployment Compensation and Workers Compensation. UBA is engaged in research and educational activities involving current and emerging issues in unemployment and workers' compensation.

4133D

This letter was sent to the House Education and Labor Committee 7/31/87

July 30, 1987

Dear :

As the Education and Labor Committee completes its work on H.R. 925, "The Family and Medical Leave Act", I encourage you to oppose the bill and any variation thereof, including H.R. 284 a substitute bill introduced by Rep. Roukema.

NFIB represents more than 500,000 small business owners nationwide who are polled bi-monthly to determine our legislative agenda. The results of our 1986 Mandate polling showed 83% opposed to government mandated family and medical leaves (11% favored and 6% were undecided). Despite the fact that 72% provide such leaves without loss of benefits.

Providing for parental and medical disability leaves is common sense and in most cases good business sense, but mandating these leaves will be disasterous. The cost and practical difficulties in implementing these leaves are many.

Small firms are labor intensive, and it's not unusual for each employee to wear more than one hat; it could be impossible to get temporaries who can perform this variety of functions. In larger firms, individual job units could be severely hampered by the loss of one employee.

If a company does hire a replacement for the leave period what does the employer do when the original employee returns? Lay off the temporary and face the increased unemployment insurance (UI) cost? In all but 14 states, a temporary replacement working the 18-week leave period becomes eligible for unemployment. These costs are not negligible. One NFIB member has calculated the additional UI assessment to her firm as $10,670!

If an employer foregoes a replacement and ask existing employees to fill in the employer faces overtime costs less productivity and employee morale problems. Assuming jobs are interchangeable and other employees can fill in, time and a half for a $6.45/hour employee (1982 average wage in firms with less than 100 employees) would require $2,474 in additional wages for an 18-week parental leave and $3,573 for a 26-week medical leave. These benefits are not free even when unpaid. The proponents ultimate goal is paid leave; the legislation requires recommendations be made to the Congress for implementing paid leave!

The number one problem for small firms is the cost of health insurance. Mandating these benefits with required continuation of health insurance coverage during the leave period acts as a disincentive for employers to offer health insurance.

Consider, too, the double-whammy of "COBRA" if the employee decides to quit after 18 or 26 weeks of leave the employer must then extend coverage for another four months.

Parental and medical leaves are excellent benefits but are only one option among many. The costs of mandated parental leaves will limit the availability of other benefits. Rather, because there are only so many benefit dollars to go around, employers and employees are best able to structure benefit packages; congressional dictates ignore individual needs and differences.

Beyond the costs and practical problems with these mandates, employers are outraged that Congress would force its judgment, into the employer-employee relationship. It is the employer's responsibility to meet the payroll and cover benefit costs.

Congress should not attempt to manage the nation's businesses from Washington. It hasn't worked in Europe where mandated benefits have stagnated their economies, and it won't work here. I urge you to defend the flexible, voluntary benefit system and oppose the benefit mandates of H.R. 925 and 284.

Sincerely,

John J. Motley III
Director
Federal Governmental Relations

0792m/rdn

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AND BALANCING

July 28, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs,
and Alcohol
Washington, DC 20510

Dear Dr. Renwanz,

I would like to urge you to do your part in defeating Senator Dodd's parental leave legislation bill S. 249.

The proposed bill would produce a completely unworkable situation for small businesses.

Can you imagine your bookkeeper or any other key employee being absent from their job from 18 to 26 weeks without unreasonable hardship to the business ?

The chance of hiring a qualified replacement on a temporary basis to fill a key employees position would be slim to none.

Again I strongly urge you to vote no on this bill as its effect would be crippling to small businesses and its remaining employees.

Sincerely,

Robert W Johnson

Robert W. Johnson, President
Milo Johnson Automotive Service, Inc.

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(213) 626-9668

July 17, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs
and Alcohol
Washington, D.C. 20510

Gentlemen:

I am a small business owner and I am against Senator Christopher Dodd's Bill S.249.

I employ 15 people and I provide full medical coverage by Kaiser Permanente and life insurance through pension and profit sharing plans. These benefits are totally paid for by my company at a monthly expense of over $2,500.00.

I would estimate that the additional coverage required by Bill S.249 would double the above amount and I, therefore, see that this bill would be a large burden on the small business owner.

Please convey to Senator Dobb my objection to his Parental Leave Bill S.249.

Yours very truly,

David L. Knutson

David L. Knutson
President

DLK:sv

Kay-Phillips FURNITURE & APPLIANCE CO.
6719 Pacific Blvd. Huntington Park, California 90255
(213) 583-6666

July 17, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs,
and Alcohol
Washington, DC 20510

Dear Dr. Renwanz,

Kay Phillips Furniture is a small furniture company. We feel that the stated bill could hurt our company financially, and therefore we are against this bill.

Thank you,

Leonard Kessler
President, Kay Phillips Furniture

1116 E. 11th STREET • LOS ANGELES CALIFORNIA 90021 • TELEPHONE 213 680 2300

July 17, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs, and Alcohol
Washington, DC 20510

This letter is written, Dr. Renwanz, with regard to S 249, Christopher Dodd's parental leave legislation.

I am sure you will get plenty of mail presenting the standard objections to this and similar legislation, so I will try to present something different.

Many people in government seem to think that business (any business) is a great artesian well that produces money instead of water and can support any program that pops into somebody's head; or at the very least can pass the cost on to the general public.

This may be true for General Motors, Chase-Manhattan Bank, Lockheed, etc. These types of businesses do not face competition from the so called underground economy for obvious reasons.

However, small businesses like ours and many not so small have more an more competition from organizations that are not too fussy about obeying all the rules and regulations government imposes on honest businesses. At some point people like us can no longer compete in the market place and stay solvent. We have two choices; get out while we are still ahead and put our people out of work or go underground ourselves.

Certain employee benefits rightfully should be provided by all employers (e.g. workers compensation when properly administered, unemployment insurance, some medical insurance, etc.) but business (especially small business) can not and should not be asked to finance and solve all of the problems facing all of us living in a modern society.

Sincerely,
Charles A. Lutz Jr
Charles A. Lutz, Jr.

L&M TIRE Co-Op

[illegible] E. VALLEY PARKWAY
ESCONDIDO, CALIFORNIA 92027
(619) 741-4044

July 22, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family,
Drugs, and Alcohol
Washington, DC 20510

Dear Dr. Renwanz:

Senate Bill 249 should not be passed. This bill will create financial hardships on small businesses and will serve no useful purpose.

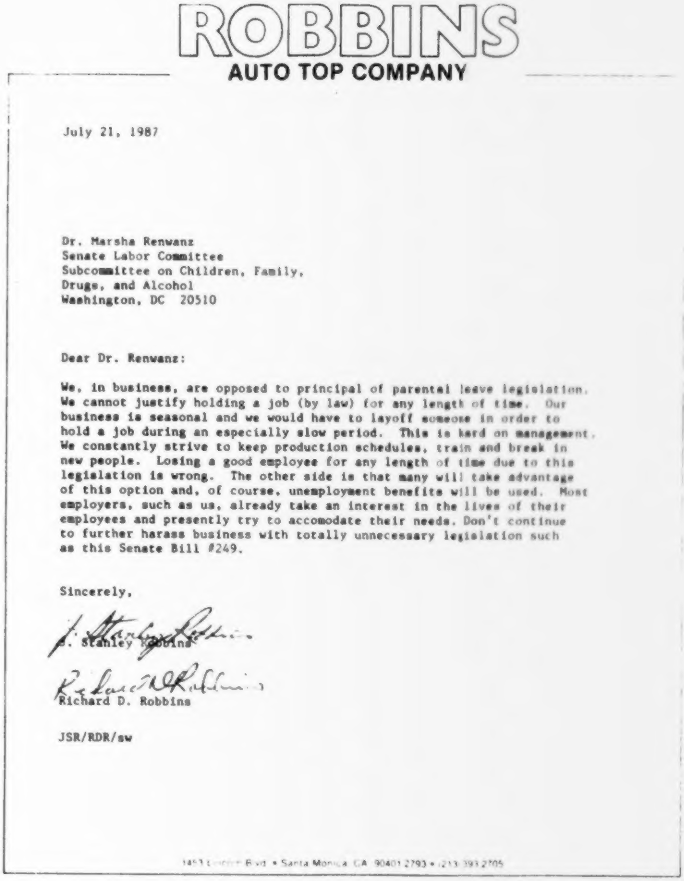
Please do not pass this bill.

Sincerely,

E J Jubela

E. J. Jubela
President

EJJ:mjk



ROBBINS
AUTO TOP COMPANY

July 21, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family,
Drugs, and Alcohol
Washington, DC 20510

Dear Dr. Renwanz:

We, in business, are opposed to principal of parental leave legislation. We cannot justify holding a job (by law) for any length of time. Our business is seasonal and we would have to layoff someone in order to hold a job during an especially slow period. This is hard on management. We constantly strive to keep production schedules, train and break in new people. Losing a good employee for any length of time due to this legislation is wrong. The other side is that many will take advantage of this option and, of course, unemployment benefits will be used. Most employers, such as us, already take an interest in the lives of their employees and presently try to accomodate their needs. Don't continue to further harass business with totally unnecessary legislation such as this Senate Bill #249.

Sincerely,

J. Stanley Robbins
J. Stanley Robbins

Richard D. Robbins
Richard D. Robbins

JSR/RDR/sw

1453 Lincoln Blvd. • Santa Monica, CA 90401-2793 • (213) 393-2705

July 21, 1987

Dr. Marsha Renvanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs, and Alcohol
Washington, D.C. 20510

Dear Dr. Renvanz,

We are writing to express our concern generally about the move toward mandated employee benefits. It's rather obvious to most informed citizens that the liberal wing of the Democratic Party is continuing its social agenda by taking away the right of business to determine how it will reward its employees and compete for labor talent.

We are particularly opposed to Senator Dodd's bill (S.249) which provides extended parental leave and 26 weeks of unpaid medical leave. We presently provide a year of unpaid medical leave and very generous maternity benefits. We believe we are successful in our business because we have the freedom to compete in the market place. These new legislative approaches are simply a hidden tax on business which will destroy our ability to compete in the world market.

Please desist from the direction you are taking. Forced benefits will only lead to higher prices.

Sincerely,

Vance N. Kirby
Executive Vice President

VNK/mf

cc: NFIB, Dept. PT
600 Maryland Avenue SW, Suite 700
Washington, DC 20024

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July 21, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs, and Alcohol
Washington, DC 20510

Regarding: Parential Leave Legislation

Dear Dr. Renwanz:

We wish to express our concern and opposition to this bill.

Our company provides Medical and Life insurance to our employees. The additional cost that would arise from this bill would be unbarable to most companies. Even large companies would have to pass the additional cost on to their customers in the form of higher prices.

We are not a Socialistic Society even though the bleeding heart Liberials would like to think so.

Sincerely,

Dale H. Payne
Arden Engineering Inc.

DHP/val
cc: NFIB, Dept. PT
600 Maryland Ave. SW, Suite 700
Washington, DC 20024

Presentation
Media
Incorporated

July 17, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs & Alcohol
Washington, DC 20510

Re: Parental/Medical Leave

Dear Dr. Renwanz:

As a small business owner, I implore that Bill S 249 authored by Senator Christopher Dodd to mandate parental leave legislation NOT be passed!

Small business cannot be required by government to keep jobs open 18 or 26 weeks and the alternative of finding and TRAINING competent "temporary" help is extremely unreliable. BUSINESS MUST GO ON and BE ALLOWED TO GO ON.

PMI is a print shop. Who will run the press for 18 weeks under this bill? Quality pressmen are hard to come by - all the good ones are working. They are not out looking for temporary jobs - running a million dollar press. TRAINING employees is expensive in both time and money.

Mandating benefits be maintained is unfair. Insurance costs this company $500.00 for four months. Does vacation & sick leave accrue too? How is this fair to employees who are working and receiving the same benefits.

Please - DO NOT PASS BILL S 249. It can KILL my business.

Having children is a personal decision. Business and government don't belong in it.

Sincerely,

Dean Wayman
President

copy to: NFIB

13040 Cerise Avenue · Hawthorne, California 90250-5523 · (213) 644-7999

Nu-Hope
LABORATORIES, INC.
MFG. AND DIST.

2900 ROWENA AVE., LOS ANGELES, CA. 90039
Mailing Address: P.O. BOX 39348
(213) 666-5248

July 21, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family,
Drugs, and Alcohol
Washington, DC 20510

Dear Dr. Renwanz:

This letter is in response to the proposed bill S.249 being submitted by Senator Christopher Dodd.

We are a small manufacturing company and we employ 25 people. We currently pay for health benefits for our employees and their families. The cost averages $175.00 per employee. This is a large expense for us.

We are very much against this bill S.249. The costs and additional paperwork would be tremendous. We strongly urge that this bill not be submitted. Don't do it!

Sincerely.

NU-HOPE LABORATORIES, INC.

LOUISE H. CURTIS
Senior Vice President

cc: NFIB

ID INDUSTRIAL DYNAMICS COMPANY, LTD.

2927 Lomita Boulevard • P.O. Box 2945 • Torrance, California 90509 2945 U.S.A.
Phone: (213) 325-5633 • Telex Intl 4720345 • N.A. 664205

July 21, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family,
Drugs, and Alcohol
Washington, DC 20510

Dear Dr. Renwanz:

I am writing to you to go on record expressing our opposition to Senator Dodd's Senate Bill S 249.

As is true with most "social" legislation, the smaller business is hurt. Since all of the small businesses combined employ more people in the U.S. than the Fortune 500 companies, a large portion of the work force depends on small business for their livelihood and if small businesses suffer, so do they.

Like most businesses (large and small), Industrial Dynamics has a fair and equitable leave policy with regards to maternity and medical leave. As a California employer we are mandated by law to provide female employees with up to four (4) months unpaid maternity leave. Also, California SDI provides our employees with disability pay for up to 52 weeks due to medical leave. In both instances we continue paying for employee group insurance benefits.

Allowing all employees to request child rearing leave would be ignoring the needs of the whole organization. Large companies are just now discovering what smaller businesses have known for a long time - a lean staff gives the company the competitive edge, especially if you are competing in a world market. But a lean staff also means that each employee is more critical to the success - or failure - of the company. While temporary agencies abound to supply lower level needs, how does a business such as ours survive without a Salesman, Foreman, Manager, etc for up to four (4) months? A company must be allowed the right to make employee leave taking decisions based on the companies needs as well as the employees.

Sincerely,

Paul H Littman
Controller

/PML

cc: NFIB
DEPT PT
[illegible] Maryland Ave SW
Suite 700
Washington, DC [illegible]

inspection filtec systems

all american
The Bushing Company

July 20, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs and Alcohol
Washington, DC 20510

Dear Doctor Renwanz,

The mandated parental leave legislation, S.249, seems to be a further requirement to export jobs by our congress.

The fall of the U.S. dollar has not done much to increase our balance of trade. Other countries without the burden of U.S. companies in taxes, employee benefits, crime cost, and OSHA are now getting yet one more advantage with S. 249.

Employers with under 200 employees often have one gardener, one guard, one driver, one machine maintenance man, etc. After 26 weeks you now take back your old employee and the replacement is on your unemployment account. Can this possibly make sense?

Even today, from our experience in this company, extra leave usually means an employee is out trying for another job while our business struggles to fill in. If we don't take him back we will pay his unemployment.

Sincerely yours,

Nathan O. Shaw

Nathan O. Shaw
President/General Manager
ALL AMERICAN PRODUCTS CO.

NOS:ms

cc: NFIB, Dept. PT
600 Maryland Ave SW, Suite 700
Washington DC 20024

ALL AMERICAN PRODUCTS CO
Drill Jig Bushings / Tooling Components / Toggle Clamps
525 Western Avenue, P.O. Box 3348, Glendale, CA 91201-0348 • Telephones: 213/245-1211, 800/423-2431 • Telex No. 295 678 • Fax No. 818/240-5756

far west interiors, incorporated
13910 Paramount Blvd. • Paramount, CA 90723 • (213) 408-2800
Cal Contractor License No 445138

July 20, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs and Alcohol
Washington, D. C. 20510

Dear Dr. Renwanz:

As a small business owner, I am concerned about Bill S-249.

Far West Interiors is a union drywall subcontractor that pays into a union fund once a month. Our employees are gathered from a pool dispatched from a local union hall.

That means, that at any one time we have as many as 50 employees working for us who are not our regular employees. Our employees are paid by an hourly rate.

Hangers are paid as follows:	Base wage	$22.48
	Vacation & Dues	2.35
	Taxes	5.48
	Union Benefits	5.28
		$35.59 x 26 weeks or 1,040 hrs = $37,013.60

Tapers are paid as follows:	Base wage	$21.75
	Vacation & Dues	1.42
	Taxes	5.32
	Union Benefits	3.95
		$32.43 x 26 weeks or 1,040 hrs = $33,727.20

As you can see, the impact of this legislation could drive us out of business.

In a year's time, the average number of hours that most of our regular men work is 2,000 hours. The average for our non-regular men is about 600 hours,

How can we be responsible for 1,400 hours that a non-regular employee may work for another contractor, relative to parental and/or medical leave.

Our company is seriously opposed to this legislation.

Sincerely,
FAR WEST INTERIORS, INC.

B. R. Souder, President

BRS:jm
cc: NFIB, Dept. PT

drywall • metal studs

C I C COAST INDEX CO. INC

[illegible]

[illegible] Court Unit D Newbury Park, CA 91320
(805) 499-6844 (805) 499-6835

July 20, 1987

Ms. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs, and Alcohol
Washington DC 20510

Dear Sir:

I am writing this letter to register my opposition to bill S. 249 (the parental leave legislation)

We have approximately 30 to 40 employees, many which are women in child bearing age. Presently, we allow a leave of absence for six weeks for pregnancy. This has been adequate leave for all cases which we have experienced. In fact, some of the women return to work before the six week period is up. The state provides them with disability pay during their absence. We generally try to manage for this period by authorizing overtime pay to existing employee rather than hiring replacement employees. Cost to employer is ½ employees salary plus benefits for six weeks. (average cost $1440.00)

If we had to provide an 18 week leave we would need to hire temporary help. This involves training a new person paying a higher wage charged by temporary service, plus provide the person on leave benefits. (average cost to employer $4325.00)

We are presently losing business to Singapore because they can produce product at 60% of our cost. This could cause additional Exodus of business from the U.S.A.

Our present policy of six weeks is more than adequate. We have never heard one complaint in regard to the six weeks policy.

Sincerely

JD Ruotsala

J.D Ruotsala
President

Copy To NFIB

[illegible] WIKE [illegible] INSURANCE [illegible]

[illegible]
JOHN HOUSER, CPCU
RANDY RINGLING
MIKE MERIWETHER, CPCU
MIKE JOHNSON
RON PEASE
DENNIS CORTE

SINCE 1922

July 23, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family,
Drugs and Alcohol
Washington, D.C. 20510

SUBJECT: S. 249 (MANDATED PARENTAL LEAVE)

Dear Dr. Renwanz:

As a small business (insurance brokers) with 45 employees, we are extremely concerned about the mandated unpaid parental and medical leave provisions of Senate Bill 249.

Almost all of our staff have highly technical skills concerning the marketing, underwriting and servicing of our accounts. It is extremely difficult to replace these people on a permanent basis, let alone for 18 or 26 weeks. This bill would severely damage our ability to provide our clients with the type of professional service they are accustomed to and desperately need. To even suggest that this bill represents a "no cost" to the employer is beyond comprehension.

We strongly urge you to consider the practical effect of this bill to an employer such as ourself and eliminate it from any further consideration.

Sincerely,

Dennis W. Corte

Dennis W. Corte
Partner

DWC:dd

198 SO FIR STREET POST OFFICE BOX 1388 VENTURA CALIFORNIA 93002 PHONE 805 [illegible] 7744 • 485 [illegible] • FAX 805 653 7762

RMI

(213) 537 8250

Refrigerator Manufacturers, Inc.

942 SOUTH SANTA FE AVENUE • COMPTON, CALIFORNIA 90221

July 24, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs & Alchohol
Washington, D.C. 20510

Subject: Senate Bill S.249

Dear Dr. Renwanz:

I am CEO of a small company with 25 employees and limited resources.

I sincerely believe that if this bill becomes law, small business cannot survive unless small business thwarts the intent of said law, by not hiring anyone under the age of 40.

The financial cost to business would be passed through to the consumer, thus making American produced products less competitive with foreign imports or exports.

Yours truly,

REFRIGERATOR MANUFACTURERS, INC.

Russell E Anthony
Russell E. Anthony, President

REA/ea

cc: NIFP, Dept. PT
Washington, D.C.

"KEEPING YOUR COOL"

BEBEE
[illegible]
6821 Auburn Drive, Huntington Beach, CA 92647 • (213) 515-1926 • (714) 848-2391 • 24-Hour Service

JULY 20, 1987

SENATE LABOR COMMITTEE
SUBCOMMITTEE ON CHILDREN, FAMILY DRUGS AND ALCOHOL
WASHINGTON, DC 20510

ATTN: DR. MARSHA RENWANZ

RE: LEGISLATIVE SENATE BILL S.249 - PARENTAL LEAVE INITIATIVE

DEAR DR. RENWANZ,

I HAVE TO FINALLY VOICE MY OPINION ABOUT WHAT IS HAPPENING IN OUR COUNTRY.

WE AMERICANS ARE THE LUCKIEST PEOPLE IN THE ENTIRE WORLD. WE ARE UNITED STATE CITIZENS AND HAVE HAD THE LUCK TO HAVE BEEN BORN AND RAISED IN A COUNTRY WHERE FREEDOM IS NOT ONLY OUR MOTTO BUT "OUR WAY OF LIFE".

I DO NOT AGREE WITH THIS BILL (S-249) THAT HAS BEEN PROPOSED BY OUR SENATOR MR. CHRISTOPHER DODD (D-CT). MY FIRST QUESTION TO MR. DODD IS "WHAT IS HE TRYING TO DO TO OUR FINE COUNTRY'S SYSTEM OF FREEDOM. NOT ONLY FOR FREE ENTERPRISE BUT THE FREEDOM TO MAKE OUR OWN CHOICE OF WHETHER WE EVEN WANT TO HAVE CHILDREN."

PERSONALLY I'VE BEEN BLESSED WITH REARING THREE OF THE FINEST CHILDREN THAT ANY PARENT WOULD BE PROUD OF, BUT WE DID IT ALL ON OUR OWN AND DIDN'T FEEL THAT WE HAD TO HAVE CHILDREN BECAUSE THE "SYSTEM" WAS GOING TO PROVIDE US WITH SPECIAL OPPORTUNITIES IF WE DID.

YES, WE ARE SMALL BUSINESS OWNERS WITH EMPLOYEES. EVEN THOUGH WE DON'T HAVE FIFTEEN EMPLOYEES AT THIS TIME AND HAVE NO FUTURE PLANS TO HAVE THAT MANY EMPLOYEES WE FEEL IT IS UNFAIR TO OUR SMALL FAMILY TO HAVE TO PAY THE COST THAT IS GOING TO ARISE FROM THIS BILL S-249 IF IT IS ACCEPTED.

OUR CURRENT EMPLOYEES ALREADY COST OUR SMALL COMPANY ANYWHERE FROM 25% TO 34% IN BENEFITS AND "MANDATORY" FEES. IF THIS BILL S.249 IS ENACTED THIS WILL CERTAINLY BE A DETERENT AS TO WHETHER WE WANT TO CONTINUE TO GROW, QUIT ENTIRELY OR STAY SMALL. FRANKLY, ENOUGH IS ENOUGH....THE BEAUCRATIC SYSTEM IS GETTING OUT OF HAND AND WHEN YOU GIVE SOMETHING TO ANY ONE PERSON SOMEONE ELSE DEFINITELY HAS TO PAY THE PRICE.

PLEASE VOTE "NO" ON OUR BEHALF TO THIS BILL S.249, WE NEED THE PRIDE WE GET FROM MAKING OUR OWN WAY IN THIS FINE COUNTRY OF OURS.

THANK YOU,

Aurore C Bebee

AURORE COUGHLIN BEBEE (THE 7TH BORN OF 14 VERY PROUD CHILDREN)
BEBEE GENERATORS

CC: NFIB-DEPT. PT

CAMERON MEDICAL CORP. cmc

9430 BURTIS ST
SOUTH GATE CA 90280
213 563 3723

July 27, 1987

Dr. Marsha Renwanz
SENATE LABOR COMMITTEE
Subcommittee on Children, Family, Drugs & Alcohol
Washington, DC 20510

Dear Dr. Renwanz,

As President of Cameron Medical Corp., I wish to express my strong opposition to S. 249, Parental Leave. The extent to which this bill is offensive is emphasized by the fact that we oppose it even though we would be exempt, having fewer than 15 employees.

The exemption itself is a clue to the harmful effects of the bill. If such a bill were justified, would it not be equally justified for employees of all companies? Do employees of large companies have babies differently than those in small companies? No. The only rationale for the exemption is recognition that its provisions could sink many small firms. It's like saying, "This is a poison, so we'll only give it to people we think can survive it."

First of all, a 'poison' is wrong intrinsically and is not made right by any formula that says some segments of business would survive it though others would not. Secondly, even if there were merit to a formula, who has validated it? What makes it fatal to a company with 15 employees but tolerable to one with 16, or 25 or 100? Of our employees, only 30% could conceivably (no pun intended) benefit from this proposal. Yet there are many companies whose potential exposure could be 70% or above. In fact, most very small companies tend to keep people longer and have an older average population, an observation that leads us to believe that your exemption is purely political and not based on any factual demographics of potential injury.

Proponents of this legislation do not fool us and should not fool themselves that this is a Parental Leave bill. It is a compensation bill, as is any bill that increases the cost of employment. And to the extent that it increases the benefits of a specific class of employees, it diminishes the potential benefits that would be available to all employees. It discriminates against the single employee and particularly against the older employee who cannot benefit from its provisions but who must, as part of the labor cost pool, contribute to its cost.

Moreover, just as the proponents don't mind feeding economic poison as long as the dosage is 'adjusted', neither do they mind concealing the fact that larger doses are the next step. Anyone who doesn't already know that the "study commission" will recommend paid leave is probably dumb enough to think the choreographed display in Los Angeles with the opposition screened out was a legitimate fact-finding Hearing.

A DIVISION OF VITAMINS FOR INDUSTRY, INC.

One of my employees has already found the solution to the parental leave problem, and we suggest it to the Committee. She is now on her third parental leave in our employ, and is such an outstanding and valuable employee that her job is perfectly secure. No employer discards good, experienced productive help. But no employer should be required to keep marginal or casual employees because of parenthood.

The decision to become parents, and these days it should be a decision, is a matter between the parents and should not be influenced by a "baby bounty" such as this bill proposes.

As a small company with limited advancement opportunities, we have tried to be progressive in terms of employee benefits. From the time we were large enough to qualify as a 'group', we have had employer-paid group insurance, the best we could afford. We are now greatly disturbed at this and other legislative proposals that would deprive us of the right to reach benefit decisions on our own or by negotiation with our employees. Frankly, we are considering, reluctantly, the idea of reducing some of our benefits for fear existing benefits will be "locked in" with new benefits mandated. Our policies have always emphasized catastrophic insurance, which is the essence of the purpose of insurance. Quite frankly, we only added maternity coverage (other than medical complications) when the State of California forced us to, and that was long after my own children were born. This bill, and others we are following, damage the incentive and ability of well-meaning companies who have tried to emphasize benefits. What we will wind up with is a mandated mediocrity.

The bill also has obvious technical problems. We assume that it would apply equally to an unmarried mother, but what about the unmarried father? How much proof may an employer demand that his unmarried male employee is really a father? Many states, including California, treat pregnancy as a disability under state insurance. Does this bill mean that the states must pay disability insurance for 18 weeks? If the employee is on unpaid leave, is he or she eligible for unemployment insurance?

As our letterhead suggests, we are in the medical supply business. We have seen inflation in health care increase at 7 times the average for the economy. This is fueled in no small part by systems of 'socialized" medicine, in which the taxpayer gets the bill and the recipient has no incentive to reduce the expense. Now we are seeing proposals for a new concept which could legitimately be called 'communized' medicine, since it involves the seizure of a company's assets and their distribution to the employees, no matter what happens to the company as a result.

S 249 should be killed, and retroactive birth control applied to the idea.

David H. Mathews

David H. Mathews, President
CAMERON MEDICAL CORP.

CC: U. S. Chamber of Commerce
California Chamber of Commerce
National Federation of Independent Business

PARTS – SERVICE & REPAIRS FOR CRANES & HOISTS

PHONE
213/ 637-1036
EMERGENCY
213/ 637-1837

The Inc.

THEO-TELLO-BUSCH, INC.
13937 ROSECRANS AVE.
SANTA FE SPRINGS, CA 90670

PH. 213/921-1138

DR. MARSHA RENWANZ
SENATE LABOR COMMITTEE
SUBCOMMITTEE ON CHILDREN,
FAMILY,DRUGS, &ALCOHOL
WASHINGTON DC 20510

JULY 17, 1987

DEAR DR.RENWANZ:

I AM WRITING YOU IN REGARDS TO CHRISTOPHER DODDS' BILL #S.249.

WITH ALL THE SKYROCKETING COSTS THAT WE HAVE TO LIVE WITH AT THIS PRESENT TIME: (LIABILITY INSURANCES & ETC: WE FEEL THAT IF THIS BILL IS PASSED-THERE WILL BE MANY MORE SMALL BUSINESSES JUST GIVE UP & SAY IT IS NOT WORTH FIGHTING FOR SURVIVAL & JUST CLOSE THEIR DOORS.

WE URGE YOU TO CONSIDER THIS BILL VERY CAREFULLY &NOT LET IT BECOME A FUTHER BURDEN TO BUSINESSES.

THANK YOU FOR YOUR TIME IN READING THIS & FILING IT IN OUR BEHALF.

RESPECTFULLY YOURS,

Ted J Theodoroff

TED J THEODOROFF PRES:
THEO-TELLO-BUSCH, INC.

TOTAL LIVING CABINET CO.
1355 DESCANSO AVE
SAN MARCOS CA 92069
(619) 744-3277

July 22, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs and Alcohol
Washington, DC 20510

Subject: Dodd bill S. 249

Dear Doctor Rehwanz:

Some of the ideas coming out of the Kennedy Labor Committee show a complete lack of understanding on how small businesses are operated.

We manufacture cabinets for builders in San Diego area. There are currently about 50 people on payroll. This is a highly competitive, but we pay the following benefits:

1. 6 Paid Holidays per year.
2. 1 Week vacation after 1 year.
3. 2 Weeks Vacation after 2 years.
4. Major portion of comprehensive Medical & Dental Plan.
5. Retirement plan - ESOP Program.

Now they want to add - 18 weeks of unpaid parental leave and 26 of unpaid medical leave, with a guarantee that the employee can return to their job after they return. This will do nothing but add costs to train new people and when the original employee returns, fire the replacements. All this costs money.

In addition the Mexican Border Plant "Maquiladoras'" are violating the Concept of Border Plants and creating more unfair competition.

We don't need more government interference, we need less.

Sincerely,

G.P. Sanders
Chief Executive Officer

GPS/leb

cc: NFIT, Dept. PT

CIMCO
265 BRIGGS AVENUE COSTA MESA CALIFORNIA 92626 4555 TEL (714) 546 4460 FAX (714) 556 6955

July 24, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children, Family, Drugs, and Alcohol
Washington DC 20510

Dear Dr. Renwanz:

CIMCO is a small manufacturing business in Costa Mesa, California. We are concerned about the added cost we could incur if Senator Christopher Dodd's (D-Ct) Bill, S. 249, Parental Leave, becomes a law.

The high cost of replacing an employee during such a leave would force severe financial hardship on our Company. This cost would include approximately $150.00 per employee to cover the cost of hiring the replacement employee, not to mention the cost of training, which may take up to two months. Then we would be burdened with the cost of U. I. benefits when the replacement employee was laid off; plus the cost of the paper work involved.

Our work force is made up of approximately 85% working families. We already offer our employees up to four months medical leave per year and up to 30 days per year personal leave.

CIMCO is a leader in our industry, providing exceptional benefits for our employees. These benefits include:

- Life Insurance
- Medical
- Dental
- Vision
- Employee Stock Ownership
- Vacation
- Sick Leave
- Holidays

When you consider the vital protection these plans provide, it is easy to see the importance of maintaining them. If this bill is passed we feel we would not be able to do so.

We urge you and your Committee to do whatever is possible to make sure that this costly bill doesn't become a law.

Sincerely,

Rod Henderson

Rod Henderson
Director of Human Resources

cc: NFIB, Dept. PT
600 Maryland Avenue SW, Suite 700
Washington, DC 20024

Russell T. Gilbert
President CIMCO
265 Briggs Ave.
Costa Mesa, CA 92626

Please note our new telephone number: (818) 442-6161

July 24, 1987

Dr. Marsha Renwanz
Senate Labor Committee
  Subcommittee on Children,
  Family, Drugs, and Alcohol
Washington, D.C. 20510

Dear Dr. Renwanz:

I was out of town July 20th when Senator Dodd spoke in Los Angeles regarding the Parental Bill, but I can assure you that if I had been here, I would have attended the meeting and spoken out against the bill.

We are a small agricultural company in California, with only 20 people in our office and warehouse. It is a strain on us when an employee takes a two or three weeks vacation, because everyone who works here has to double with several jobs, and it is a strain to cover for such a person. Imagine what it would be like if that person was gone for four months! We simply would be crippled up, even if the person was not paid for the period.

Conversely, it would be expensive for us to hire and train a replacement for the four month period, and unfair to that person, because we would have to let them go when our other employee came back.

This proposal for parental leave is simply impractical for small companies, and there are a lot of us in the United States.

Yours very truly,

BODGER SEEDS, LTD.

Chairman

Howard Bodger
HB:et

Alta Chemical Corporation
11526-F Sorrento Valley Road
San Diego, California 92121 (619)/453-5010

July 21, 1987

Senate Labor Committee
Subcommittee on Children, Family,
Drugs, and Alcohol
Washington, DC 20510
Attn: Dr. Marsha Renwanz

To Whom It May Concern:

As the President and CEO of a small manufacturing business, I am very distressed and quite concerned about the potential ramifications to my company, should the "Parental Leave Bill": S.249 (Dodd) be enacted as law.

We employ 35 individuals in California and Maryland supporting annual revenues of about $3,500,000. I do not have the luxury of being able to reassign vital production and administration tasks for a period of up to 18 weeks to accomodate `child rearing leaves' for both male and female employees or 26 weeks of medical leave, with a guarantee that employees can return to their job and with continuation of my cost for expensive benefits during these periods. Nor do I have the staffing or financial feasibility to hire and train temporary personnel to fill the gaps when such leaves occur. In a small business such as this, each employee must perform a wide variety of jobs, thereby minimizing costs and creating a profitable operation. It requires many months if not years to properly train and indoctrinate a temporary employee to step into any job being held by our valued employees.

The laws which currently exist regarding pregnancy and medical leave have adequately fulfilled the needs of our employees for many years. I fail to see the reasoning or advantages to be gained by enacting such a broad and expensive change to these laws. In practice, we have in the past and we will continue to do all we can to hold open a position for a dedicated and productive employee during a parental or medical leave period. It is both good business and common sense to do so, and it protects the investment in time and training we have made over the years.

The socialistic motives behind this bill fail to account for the realities of business and will do great harm to the economic environment for all small businesses and the U.S. economy as a whole.

If enacted, it will force companies such as ours to not only be more selective in the area of job placement, but also the creation of new positions and jobs within our firm will have to be more closely evaluated in light of potential employee absences.

ALTA

Senate Labor Committee
July 21, 19887
Page 2

These types of medical and parental leave benefits have been in existence in a number of European countries for many years and have proven not only to be detrimental to productivity, but also have severely curtailed the creation of new jobs and economic growth.

We don't need the government interferring in the mandating of employee benefits which a company can offer. To attract the talent I need to operate my business, I must offer comprehensive employee benefits competing with todays job market. I doubt if a regulatory board or government agency can better judge what I need to attract good people or what I can afford to offer and still remain a profitable entity. Currently we provide more than 35% of our annual payroll in additional benefits to our employees.

Senator Dodd's proposed Bill (S.249) would increase this amount by 60% to 100% and result in substantial increased costs which will force us to raise our prices, all of which will fuel a resurgence of inflation and business failures in the small business area.

The small business community today contributes to and provides the majority of the new jobs in our economy. This bill will significantly limit any such growth in the future and will force extensive revaluation of the levels of employment required to operate a profitable business entity.

A defeat of S.249 (Dodd) will ensure the continuation of a vital economic climate in the small business environment.

Sincerely,

Rene Gallet

Rene C. Gallet
President

cc:NFIB, Dept. PT

RCG:dh

GEARY PACIFIC CORPORATION
1200 E. CERRITOS AVENUE / ANAHEIM, CALIFORNIA 92806 / (714) 991-7800 / FAX (714) 991-9302

July 17, 1987

Dr. Marsha Renwanz
Senate Labor Committee
Subcommittee on Children,Family,
Drugs and Alcohol
Washington D C 20024

Dear Dr. Renwanz:

I am advised that hearings on Senate Bill # S-249 are underway and I would like to make the following comments for your consideration.

My company has been in business for 26 years. We employ 80 people in 11 locations strung out from Washington state to San Diego, CA, plus locations in Colorado, Nevada and Arizona.

We provide 100% company paid Hospitalization for our employees and their families, a generous personal leave time, paid vacations and profit sharing. Last year these company-paid-benefits totaled over 24% of our payroll.

Included in our benefit package is a maternity leave of a minimum of 45 days but longer if authorized by the doctor. To my knowledge we have never once had a problem in the area of maternity leave.

As I understand S-249, employers with 15 or more employees would be required to provide 18 weeks of unpaid parental leave (for fathers as well as mothers) and 26 weeks of unpaid medical leave.

My question is, how can a company, even though it employs more than 15 people, conduct it's business if one-quarter to one-third of it's people in a particular location are on maternity for 18 to 26 weeks. That is what would happen in our case as some of our locations have as few as 3 or 4 people. The answer is we can't. So we have to bring in new employees, train them and then what do we do with the temporary employee when the maternity leave persons return? We would have to lay them off, and that's not fair, when someone has worked dilligently for you for up to six months.

I think S-249 needs a lot of work. Number 1, it is certainly not a No Cost bill and secondly, the 15 employees plan should be 15 people per location.

Sincerely,

Patrick Geary
President

Senate Labor Committee
Subcommittee on Children, Family, Drugs,
and Alcohol
Washington DC 20510

Atten: Dr. Marsha Renwanz

July 14, 1987

Gentlemen:

Attached is a copy of a letter original sent to the N.F.I.B. on April 10, 1987. Please enter this letter and the attached letter into the records as an individual against proposed Senate Bill 249 and others of its ilk.

I am, as is my husband, a small businessowner. His business is that of an architect; mine are those of a blueprint company, computer timesharing/word processing firm, and equipment leasing company. It is the impetus and force of our individual personalities and skills that have enabled us to provide services to others and to develop business levels sufficient to require the assistance of others including our employees and outside consultants. Regardless of the overall size of a business, it is dependent upon the services of its own staff and those of outside businesses for its healthy operation. Without exception, this creates a ripple effect that leads inexorably to "Small Business".

We already provide, at our expense, non-mandated employee benefits of vacation (ranging from two weeks after one year to four weeks after five years), insurance coverage of $1,000,000, personal birthdays as a paid day off, eight paid holidays per year and six leave up to five days per year. In order to provide the insurance at levels normally only found in very large corporations, we also self-insure the first $2,000 of medical bills per employee. The representatives of this committee must realize, that, at a certain point, employers become unable to absorb even $200 of additional employee benefit expense. What looks like a wonderful proposal in social services in reality becomes the last straw that encourages business leaders to either shrink their business to levels that will not trigger these social projects costs or to institute subtle employment practices that will me counterproductive for employee protection. (see page 2, paragraph 3, of the attached letter) In the long run, the individuals who ultimately suffer are the very employees that the committee is attempting to assist.

Employees are an asset to businesses just as equipment, inventory and product or service produced are assets. No business wishes an interruption in the availability of any of these assets so that sheer market pressure forces us to provide benefits that will make it more difficult for our labor pool asset to leave. Any business that ignores this reality will ultimately fail. This is a reality and is reflected in today's market. Government intervention in this matter of domestic policy is not necessary.

Statistics available from Government records, daily articles in local papers and in well-respected trade and financial journals merely reflect what businesses, that is, employers, already know. Worldwide the population now stands at 5 billion; the birthrate in the United States is now less than replacement level and is not being offset even by increased immigration. The resultant decrease occuring in the labor pool is already forcing business at all levels to compete more realistically in working conditions, wage scales and employee benefits in order to maintain the operational health of their business.

Pregnancy is elective; so is work. I offer money to an individual to provide a service. I will not willingly pay money to anyone who does not perform that service nor do my businesses have the "luxury" of placing clients "on hold" until several months down the road when that individual is again able to perform the services for which they were engaged.

If "quality of life" is truly a concern at the federal level for individual citizens, it would be far more productive to institute comprehensive controls on escalating liability awards that exceed the out-of-pocket losses of individuals, the runaway increases in the costs of medical care so that preventative medical treatment could contain the far more expense costs of treating advanced illnesses and the establishment of a national system of childcare so that each member of our society could be enabled to provide more efforts for their individual financial needs rather than continually turning to the pockets of others.

I live and work in Southern California. The economic realities of our region is that unemployment is extremely low and employers must be competitive in the entire work/benefit package to obtain and to retain employees. The situation is widely different in all regions of this country. To attempt to legislate this at the federal level as well as other benefits at the federal level will ultimately cause greater cyclical upheavels in the employment community than can be solved by federal bandaids. This is the type of legislation that is more realistically handled at the state level where its needs can be more efficiently assessed.

Sincerely,

Sydney J. Minich
Executive Time Systems
CRH & Associates
ETS Leasing
6424 E. Via Corral
Anaheim, California 92807
(714-998-4464)

SJM/tm
Attachment

National Federation of Independent
Business
600 Maryland Avenue, SW, #700
Washington DC 20024

April 10, 1987

In accordance with your request, the following is both commentary and representative statistics of how the "Parental Leave" proposed legislation would affect my business and the separate business of my husband.

The following breakdown is based upon a $7.00/hour employee. This is really quite low inasmuch as the average employee at my husband's office is in the $15 - $20.00 range and mine average $10 - $12.00; however, even basing the calculations only on $7.00, the effect is patently dramatic.

NOTES:

1) Under the proposed regulation, the employer would have cost a) normal salary paid for 18 weeks of production, (b) cost of not having that employee produce but be replaced by overtime expense of other employees, and/or (c) cost of a substitute, temporary employee whose termination is governed by state law.

2) According to Dick Johnson of the California Employment Development Department and to Alta Yeta Gail, a statitician for the State of California, approximately 65 to 70% of all new employment positions being created in Southern California are by those classified as "small business", i.e. those employing 50 or less individuals. Of these positions, they stated that the figures tend to indicate that more than 70% of those new positions are in fact being created by those employing less than 10 individuals. This is the very group, of which I am a member, who absolutely do NOT seek employees until the workload becomes truly unbearable for both our employees and ourselves.

3) Small businesses, like mine and like most others, feel successful if we can meet payroll, pay rent and utilities, provide insurance, vacations and occassional bonuses, and after taxes, still be able to put in the bank anywhere from $5,000 to $75,000 for unexpected equipment repairs, business slumps and ultimately, equipment or physical plant replacements. We're not venal money-grubbers; but, on the otherhand, we're certainly not the U.S.Mint either.

4) Providing guarantees to individuals who are absent from work for medical reasons beyond their control such as severe accidents or clamitous diseases such as cancer or major heart attacks is one thing; but, pregnancy is, certainly in todays field of medical technology, a personal choice and should not create financial hardship for the employer or fellow employees in the restructuring of their personal time.

This proposed legislation is, at first glance, a well-intended gesture at fostering family nurturing and stability. At second glance, however, it becomes quite clear that those espousing this stance have not even begun to perform their homework. The only individuals who would be able as a substantial group to avail themselves of this benefit would be those from two-income, high income families. Those it is most intended (one hopes) to benefit from this legislation, would not be able to withstand the personal financial pressures a missing income would create.

It is difficult enough for the average business to maintain a relatively smooth semblance of operation coping with normal employee illness, vacation time, and erratic schedules for illness of family members, court appearances, and untold other causes without having to also attempt to work in an additional 18 weeks of absence for someone's personal election.

What this legislation would, in fact, create is a decrease in the availability of jobs for the unskilled, for those of child-bearing years and for those perceived as being likely to take advantage of this disruption in normal business procedures. It would create a bonanza of opportunity for the elderly and those past child-bearing ranges.

It is long, long past time for the various individuals who would legislate benefits at the expense of business to realize that the realities of today's economic climate are not those of thirty years ago. Big business is not the primary source of employment growth. Big business is cutting back on salaries, benefits and employees. Small business is providing employment, opportunity and growth for our economy and our country.

To mandate that the very sector of the economy - business in general - that enables people to eat, to have shelter, to survive, provide yet another benefit is like serving the golden goose for Sunday dinner and then complaining that there are no more eggs on Monday.

Sincerely,

Sydney J. Minich

I.	II.	III.	IV.	
EMPLOYEE X $7.00/HR x 40 HRS x 18 WEEKS	EMPLOYEE ON PARENTAL LEAVE FOR 18 WEEKS	COST OF REMAINING EMPLOYEES OVERTIME	TEMPORARY NEW EMPLOYEE	DESCRIPTION
5040.00	---------------	10800.00	5040.00	Wages
360.36	---------------	772.20	360.36	FICA
40.32	---------------	97.20	40.32	SUTA
60.48	---------------	71.40	60.48	FUTA
660.00	660.00	------------	660.00	Insurance
186.76	186.76*	186.76*	186.76	Vacation
136.10	---------------	204.15	136.10	Prof. Shar.
50.40	---------------	108.00	50.40	State Train.
6534.32	846.76	12,239.71	6534.22**	Total

* This would be accrued to the employee since state law requires that this type of leave be treated when the employee returns as though they had never been off work. Secondly, our remaining employees always accrue additional time off for hours worked in excess of forty hours per week.

** This solution would also accrue additional expenses incurred by this employee losing his/her job through no fault of their own. (See "A" below)

I.	Cost of employee producing for an 18-week period.	$ 6,534.32	no impact
II.	Cost of employee on leave.	$ 846.76	
III.	Cost of employee on leave with other employees performing missing employees functions. ($846.76 + $12,239.71)	$ 13,086.47	+ 7,585.67
IV.	Cost of employee on leave with outside employee performing missing employees functions. ($846.76 + $6,534.22)	$ 7,480.98	+ 1,793.42

A. California employment law would also create a severe hardship in the case of an outside employee being utilized for the interim 18 week period. If said employee were terminated at the end of this period because the first employee has been guaranteed their job, state law would interpret that the second employee had lost his position through no fault of his own. This would then affect the employer in that an additional assessment would be placed against the employer's state unemployment fund ranging from .2% to 1.2% of their gross payroll to a maximum of $21,900 per employee per year for a three-year period. This would in my case, represent an additional charge of $10,670.40 plus the $1,793.42 indicated above or a total of 12,463.82 or a subsidy of the missing employee to the tune of $3,118.45 per month. This is NOT A NON-IMPACTING proposed piece of legislation. My husband, with 13 employees would be thus penalized to the tune of $20,503.42 or have subsidized his employee an average of $5,125.88 per month.

California Chamber of Commerce

July 20, 1987

The Honorable Christopher J. Dodd
Chairman, Subcommittee on Children,
Family, Drugs & Alcoholism
United States Senate
Hart Senate Office Building, Room 324
Washington, DC 20510

Dear Senator Dodd:

Subject: S. 249

As a member of the California Chamber of Commerce and a representative of 3,500 California businesses, I am writing you to express my concern at not being able to testify before your Subcommittee on Children, Family, Drugs & Alcoholism on July 20 in Los Angeles.

I realize time constraints are of major importance, but I also believe that it is of equal importance to air the views of those who oppose your parental leave bill. By only scheduling two slots for opposition testimony, it is my concern that the subcommittee will not gain a full understanding of the nature and extent of the opposition to your bill.

I will be attending the hearing in Los Angeles on July 20 even though I will not be allowed to represent the views of California business. In anticipation of this I have prepared a written testimony which states our concerns and opposition to mandatory parental leaves. I will submit this testimony to your subcommittee in Los Angeles on the 20th.

Sincerely,

Roberta Mendonca Cook

Roberta Mendonca Cook
Counsel for Insurance and
Employee Benefits

RMC:abb

1027 10th Street, 4th Floor · P.O. Box 1736 · Sacramento, CA 95808 · (916) 444-6670

Senator **Dodd**. I thank you for being here. This hearing is adjourned.

[Whereupon, at 1:45 p.m., the hearing on the above-entitled matter was adjourned.]

PARENTAL AND MEDICAL LEAVE ACT OF 1987

SEPTEMBER 14, 1987

U.S. SENATE,
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Chicago, IL.

The subcommittee met, pursuant to notice, at 9:30 a.m., in Suite 2525, at 219 South Dearborn Street, Chicago, Illinois, Senator Christopher J. Dodd (Chairman of the Subcommittee) presiding.

OPENING STATEMENT OF SENATOR DODD

Senator DODD. The Subcommittee on Children, Family, Drugs and Alcoholism will come to order.

We, first of all, welcome all of you here this morning.

Just a couple of housekeeping rules before we get under way, if I can.

First of all, I want to express my gratitude to those folks here in Chicago who have been tremendously helpful in helping us arrange this hearing here this morning, particularly those involved in this particular building, making this room available to us so that we can conduct this hearing.

What I would like to suggest and propose to those who will be our witnesses, I will guarantee at this point that all your statements in their entirety will be included in the record. What we try to seek, wherever possible, is brevity. And so to try and make the points as quickly as possible. We have a lot of witnesses here today and, if it is possible to offer a synopsis of your thoughts, your points and if you are comfortable doing so, that would help us. If not, and you want to go through that statement, I understand that as well. But I want you to know that if you do decide just to hit the high points, so that we can get to some of the questions, sometimes that is a way of bringing out some of the best information. At any rate, we thank you. I thank you. The Subcommittee is appreciative of your willingness to participate in these hearings and to discuss what I believe, and many others believe, to be an extremely important issue that affects families and young people in this country.

I am pleased to call to order this hearing in Chicago. This is the third in a series of regional hearings on parental leave that the Subcommittee on Children, Families, Drugs and Alcoholism is holding across the country. We have already been to Boston and Los Angeles. We will travel to Atlanta next month before we complete this series of field hearings. The question before us at all these hearings has been very straightforward: What are the costs to families, businesses, and the nation, of having the parents choose, or forcing parents to choose, between their children and their jobs?

Today we are going to hear the views of parents, professionals, business opponents and supporters, and community groups on a piece of legislation that I consider to be both pro-business and pro-family, the "Parental and Medical Leave Act of 1987" (S.249) I reintroduced in the Senate on January 6th of this year. This legislation would promote the economic security of families by providing for job-protected leave for parents upon the birth, adoption, or serious illness of a child, and temporary medical leave when a serious illness prevents a parent from working.

Such leave would be unpaid—I want to emphasize that. Most countries, of course, have paid parental leave policies–but I am talking of unpaid leave, and I believe that it will not add to the deficit nor to the economic burdens carried by employers. Rather, as some of our business witnesses this morning will testify, parental leave policies can trigger such economic benefits as increased productivity and decreased absenteeism. Yet, as we will also be certain to hear this morning, national business organizations, such as the U.S. Chamber of Commerce and the National Association of Manufacturers, disagree. Right before I held the first Senate hearing on this issue, the U.S. Chamber announced that unpaid parental leave would cost employers of this country some $16.2 billion. Several weeks after that hearing, the Chamber wrote me and changed their minds, stating that the $16.2 billion figure was just a "worst case scenario". Rather, they now estimated, they said, that unpaid parental leave would cost in the neighborhood of $2.6 billion, or some $14 billion less than their original testimony. That is a significant reduction, indeed.

Such a huge fluctuation in the Chamber's estimates highlighted the importance of getting an independent, objective assessment of the possible costs and benefits to business of unpaid parental leave. Thus, along with Senator Arlen Specter of Pennsylvania, I have requested such an assessment by the General Accounting Office (GAO), and on the 23rd of April the GAO testified before this Subcommittee that any costs associated with unpaid leave would be significantly less than the $2.6 billion figure now being used, as I mentioned earlier, by the Chamber.

When we conclude these regional hearings this fall, the General Accounting Office will be ready to report back to the Subcommittee with a cost-benefit estimate of their own, a far more detailed one than the one we received earlier this spring. We will certainly be happy to provide all of the witnesses here today, as well as those interested parties, with an advance copy of the final GAO report.

In light of the special problems often faced by small employers, businesses with fewer than 15 employees would be exempted from the provisions of this legislation. According to the GAO, that means that 80 percent of the firms in this country would be exempted under this legislation. Keep in mind, however, that only 25 percent of the workforce is employed by businesses with fewer than 15 workers. Therefore, three out of every four American workers would be eligible for job-protected parental leave under my bill. But small business, that I think has some very legitimate concerns about this, would be protected.

It is important that policy makers and members of the public hear all sides of this story and not just the arguments of one particular interest group and, for that reason, we will hear witnesses representing all viewpoints this morning. We must bear in mind that the most important group, the most important group, affected by this legislation will not be here this morning, namely, the one out of every four Americans who happen to be children.

The time has come when we can no longer ignore the changing demographics of our work force and its effect on children and families. Today, close to half of all mothers with infants under the age of one year work outside of the home. That figure has doubled since 1970 and shows no signs of abating. In fact, 85 percent of all women working outside of the home are likely to become pregnant at some point during their careers. I am certain that most everyone in this room today knows of at least one new mother, or father, who is trying to juggle taking care of a new infant with getting straight back to their jobs.

The reasons for this are quite simple: Women and men are in the work force out of economic necessity. Two out of every three women working outside of the home today are either the sole providers for their children or who have husbands who earn less than $15,000 a year. And given that two out of every three children added to the poverty rolls since 1978 come from families in which one parent is working full time, year-round, it is not too difficult to see the importance to families of having two wage earners. In short, the wages of both mothers and fathers today are critical to the support of their families.

It is important for us this morning to examine closely the question of which workers are most likely to benefit from an unpaid parental leave policy. Some of the philosophical opponents of this legislation have dubbed it a "Yuppie Proposal", because it only provides for unpaid leave. This morning we will hear testimony on this issue from parents at all ends of the pay scale.

We will also hear from the parents of children who have suffered injury or serious illness, requiring hospitalization and an extended period of recovery. They will delineate for us the importance, in their eyes, of knowing that once their child's medical crisis is resolved, they will have a job to return to.

Ronald McDonald Houses across the country have been strongly supported by local and nationwide businesses, to businesses' credit. They have done a fabulous job in supporting those facilities in their efforts to provide shelter, as we all know, at a minimal cost for parents who must travel far from home to procure appropriate medical care for a child's acute illness or injury. Under this legislation, the same businesses that support Ronald McDonald Houses would also provide job guarantees for those, their very employees with sick children, who must seek shelter there.

Last but not least, we will hear from parents this morning who have adopted "Special Needs Children". These are children without permanent homes who have mental, physical or emotional handicaps. They are also older children who are members of sibling or minority groups. As Chair of the Subcommittee on Children and Families, I can do everything possible to strengthen the Special Needs Adoption Program in this country. But until we make parental leave a national priority, countless, countless prospective adoptive parents will be unable to take the necessary time off from work to adopt these children in the first place. This legislation would give the same businesses that support Special Needs Adoption, and many businesses do across this country, these very businesses could play a vital role in encouraging their employees to become adoptive parents.

In closing, it is appropriate that this Subcommittee meet here in Chicago, the center of the nation's industrial heartland. In recent years, changes in our industrial base have brought serious and sometimes tragic economic hardship to far too many Midwestern families. As a result, more and more families in this part of the country absolutely now rely on both parents working in order to survive. So job-protected parental leave has become an especially pressing issue for families from Illinois to North Dakota. It is my hope that this morning's hearing will bring the serious concerns of these families into focus.

With that, we are going to invite our first panel of witnesses to come forward. As I introduce you, you can step up. The first panel includes the parents of newborn, adopted or seriously ill children, as well as eminent professionals working with such children and their families. The parents we have with us this morning, and I want you to correct me immediately if I mispronounce any names, are James Patrick, Lucille Thervil, Imogene Bowers, Jane Schreier, Glenda Cornelius and Mary Swisher will lead off this panel. While they are coming up, if they are here with us, James Patrick is the father of a 16-year old boy who has chronic kidney problems or has had them since birth. His son has had one transplant and we are told may need another. Lucille Thervil is the mother of three adopted children and the Executive Director of a social service agency in her own right. Imogene Bowers is the mother of a two-year old and a pediatrician. Jane Schreier, another pediatrician and a parent, shared a residency with Imogene, enabling both of them to take parental leave. Glenda is the mother of two adopted daughters and is currently not working. She lost her job because of the time she had to take off to be with her children. Last but not least, Mary Swisher is the mother of a 3 1/2 month old daughter, who has had some health problems. We thank all of you for being here this morning.

Dr. Berkelhamer and Phyllis Nickel, why don't you come on up and be there, because you may want to jump in on some of these thoughts as well. I should say that Dr. Berkelhamer is a professor and an associate chairman of the Department of Pediatrics at the University of Chicago, School of Medicine, as a noted pediatrician, as he will describe his work with newborn and seriously ill children and their families. Phyllis Nickel is from the Family Resource Coalition in Chicago. She is a program specialist with a great deal of experience in providing support for children and families at all income levels and in all the communities in this area. She will tell us about her work on the front lines in assisting families with children and, particularly, with those facing serious economic difficulties.

We will begin with you, James Patrick, since I introduced you first, and we will work down in the order in which I have introduced you. Again, let me emphasize your statements will certainly be a part of the permanent record in their entirety and feel free to proceed in the way in which you are most comfortable.

STATEMENT OF JAMES PATRICK, PARENT

Mr. **Patrick**. Thank you, Senator Dodd.

It is a honor for my family and I to accept this invitation to appear before the Subcommittee on Children, Families, Drugs and Alcoholism which you chair, and we thank you.

Our story began over 16 years ago with the birth of our firstborn, James, Jr., whom we call "Toby". Two weeks after birth, Toby was diagnosed as having a catastrophic debilitating disease called polycystic kidneys with uretha obstruction. The prognosis was poor and death in three to six months. However, 16 years later, Toby has been hospitalized countless times and has had numerous major surgeries, including a kidney transplant. And due to unforeseen circumstances, subsequent kidney failure.

Toby also suffers from bilateral loss of hearing. Currently, Toby is waiting for a kidney transplant and he is currently being dialyzed three times a week. During these trying times we have had to make decisions, whether to accompany and support our son or attend work. It is our belief that had we chose the latter, our son's prognosis might have been different. Obviously, that is without scientific or clinical support but, again, I say it is our personal belief.

It is also our belief that Toby and children in similar situations can, and will, make a contribution to our great society in the future, if we continue these kinds of support mechanisms. Because of this, and our love for Toby, we have made sacrifices. And this support, which many times has cost us our jobs but not our spirit.

It is also our hope and dreams that this pending legislation passes both Houses and is signed by the President to protect children and parents from experiencing similar situations in the future.

As parents, it is our duty and responsibility to support and protect our children. It is with this same spirit of responsibility that you, as leaders of this great nation, must pass this legislation.

And I thank you, Senator Dodd.

Senator **Dodd**. Thank you very much for your testimony.

Did I pronounce the name correctly, Lucille?

Ms. **Thervil**. That is correct, sir. Thank you very much.

STATEMENT OF LUCILLE THERVIL, PARENT

Ms. **Thervil**. After being married for the past eighteen years, the decision was to adopt and we certainly did so.

My experiences with my job was not a very good one. I worked as a relief supervisor for one of the largest hospitals here in the City. My hours vary from 6:00 to 2:30, from 11:30 to 8:00, from 12:30 to 9:00. I work six and seven days on many occasions and never have the same day off during the week. I never had a chance to spend Thanksgiving, Christmas or New Year's, with my family. I worked so much on the different shifts until I had to get two baby sitters. One would only keep my child for five days a week and the other one would keep him on Saturdays and Sundays when my husband would not be working.

On my job there was very little consideration made to women with small children. I asked for a regular shift and regular days off. I was told that there were supervisors who had more seniority than I and, if I wanted to work, I would have to work the hours and the days that I was assigned. I had no other choice but to work.

Due to our interest in raising a family, we decided to make a decision so we adopted a second child. As the years passed, I decided to resign from my job because I knew that I would not be given the regular days off or a regular shift. My situation became a little better because during the time I went back to school and received my Master's Degree. I was able to take my child to school and place him in a Day Care Center that was on campus while I was in class and my daughter that I adopted, I was able to put her with another baby sitter. And as the years passed, we decided to adopt a third child. My situation is much better now because I am my own boss and I decided to start my own business. So it makes it much better for me because I am able to spend more time with the third child than I did with the first two.

In closing, I would like to say, if I had to do this all over again, I would. It was very important for my husband and I to take this step and I certainly hope that there will be many other couples that will decide and even single couples decide to do the same thing.

Senator DODD. Thank you, Lucille, very much. Perhaps we will have some questions for you in a few minutes.

Dr. Bowers.

STATEMENT OF DR. IMOGENE BOWERS, PEDIATRICIAN

Dr. BOWERS. My name is "Genie" Bowers.

I work as a pediatrician at the City of Chicago Neighborhood Health Center, one which serves primarily working for parents.

Your opening remarks make it clear that you understand the difficulties that the parents, whose children I see, face, but I am fortunate to be able to tell you about a more positive experience, my own.

I have a two-year old son who was born just after the end of my pediatric residency at Wyler Children's Hospital at the University of Chicago.

When I married at age 34, my husband and I doubted that we would ever find that so-called "good time to have children". I was already working that relentless pace of medical training. He worked full time and studied while I was in school. When I began my internship, he began full-time graduate school.

We were surprised but delighted when we found that we were expecting a child, due at the end of my third year of residency and we were fortunate in almost every way that we might have hoped for a couple very dependent upon one rather small income earned by a pregnant woman. In spite of being an older mother, working sometimes very demanding and long hours in the hospital, my pregnancy was uncomplicated. My supervisors and my co-workers were supportive. My son, Daniel, was a healthy baby, born without any difficulty on his due date just four days after the end of my residency and we were both home in two days. My husband had no academic obligations for the summer and so was not only able to be a part of those first difficult weeks but to continue for two months after I returned to work as Daniel's primary caregiver. I had almost six weeks at home with my new baby, because I had a very unusual shared-job as chief resident in the hospital in which I had just completed my residency. My co-chief, Dr. Schreier, from whom you will also hear, was expecting her own first child just four months after mine. The job had become a shared full-time position a few years previously due to the excessive demands on any one person. It had become the responsibility of the chiefs themselves to establish a rotating schedule in which one chief was on call at the hospital seven days a week, five days a week for 12 hours a day, and available at any time. And the other one was involved in some other off-call medical activity.

Although the University provided no maternity leave for residents, the Pediatric Department raised no objection to our combining vacation and educational time to establish our own maternity leave. Since I started the job by going into labor, Dr. Schreier had no choice but to start on call. While I was at home, she not only learned and invented our job but called almost daily to introduce me to it and offer moral support to the new mom. She took on faith that care of the newborn is no vacation, which she soon learned first-hand herself.

My husband and I were up every night with our screaming colicky baby for six or seven hours and he spent the day maintaining our daily life as Daniel and I tried to establish our understanding of breast feeding.

Returning to work was a difficult separation, but I was fortunate to have my husband at home. When he returned to full-time studies, it was another wrench for both of us, but at least we had been able to get that crucial start. We would have been glad to have more time, but many mothers may be able to do with less. However, we were able to establish those somewhat painful and very tender roots of our family relationship in those days and weeks. This is a time that is vital to return any parent to work with concentration and commitment.

I suppose that most people would assume that anyone working as a pediatric doctor in a pediatric hospital would have it made automatically. However, our situation, Dr. Schreier's and myself, was in marked contrast to an intern who, the same year that we were pregnant, found herself in the difficult situation of needing family leave. She found herself and her equally overworked peers at a complete impasse over this unplanned leave. Few of her co-interns were parents. Those that were were reluctant to ask for more time from their own families to provide for someone else's. Close friends of hers, already working 90 or 100 hours a week, unhappily but wisely refused to assume her job as well. The residency director and department chairman, without discretionary funds or a university policy to apply to the situation, rapidly became their responsible enemy in the vitrolic meetings that ensued. Had this doctor's baby been anything but the healthy child that he was, the sense of guilt for the stress that she had experienced during her pregnancy would have been tremendous for all of us pediatricians. No employee should have to resort to good luck, special jobs or acquisitions of each other and their bosses, to obtain the right to care appropriately for their family members.

I hope you will soon see the defence of the nutrient relationship between parent and child as a right our society is proud to support.

Thank you.

Senator Dodd. Thank you very much.

Dr. Schreier.

STATEMENT OF DR. JAYE SCHREIER, PEDIATRICIAN

Dr. Schreier. My name is Jaye Schreier.

I live and work in Chicago. I'm a mother and a pediatrician, and that's the order in which I prioritize my roles. Let me speak in opposite order for now.

As a professional woman I am acutely aware that the prime childbearing years and prime career-building years coincide. As outlined by Dr. Bowers, we were given an unusually good situation to start our families. Most professionals do not have such flexibility. Many women make career compromises to raise families. Many mothers make family sacrifices for career needs. American families cannot withstand such sacrifices. And what profession can afford to lose good young workers at their prime?

More difficult than the professional is the young working class family dependent on two salaries. These are the families for which I serve as physician. Their stresses and workloads are enormous. In addition, many children are now being raised in mother-headed households. Lenient work schedules are necessary to keep these families solvent.

My son, Timmy, is a healthy rambunctious two-year old. I have been fortunate enough to never miss work because of even a minor illness of my child. However, each morning on my way to work at a major children's hospital in the City, I see moderately and severely handicapped children arriving in specialized ambulances accompanied by their parents for yet another doctor's visit. I see the strain and chronic exhaustion in their faces. As I enter the building, I see parents of acutely ill children in the lobby. Some mornings they are in tears. Other mornings they are just numb. To think these people could work during their acute crisis and be productive is ludicrous. As Mr. Patrick has pointed out previously, chronic illnesses last weeks.

Our medical technology has advanced to the point where acute illnesses are not decided positively or negatively in a matter of days. We can transplant bone marrows, livers, kidneys, and hearts, in our hospital. The recovery from these transplantations is long. Our hospital, as many others, now works on a bare-bone staff. We need the parents there to help the children, not just morally but physically. We need the parents' help in feeding these convalescing children. We need their role in physical therapy in starting these children back to walking.

In addition, the current trend towards prepaid health care, which I, incidentally, support, has with the move for more and more care to be done at home and with two working parents, who will be there to help the child, to give his medicines, to give his therapy. If a mother, who gets her health care prepaid through her job, is then at jeopardy to lose her job and, therefore, her prepaid health plan because the HMO doctor has insisted that the child can now be taken home, where will she be?

I support your bill, Senator Dodd, and thank you for asking me to speak.

Senator DODD. Thank you very, very much for your testimony. I don't know if Glinda Cornelius has arrived. If she has, we have a chair for you up here. If not, we will go on with you, Mary.

Ms. SWISHER. I'm a little nervous because I can see that everybody else is so prepared and I didn't have very much time.

Senator DODD. It looks to me that you have brought an exhibit.

Ms. SWISHER. Yes.

STATEMENT OF MARY SWISHER, PARENT

Ms. SWISHER. My name is Mary Swisher and this is my daughter, Linsey. Linsey was born with a dislocated hip. My job is with a Chicago-based company and I work at a branch, but I don't want to name the company because I don't have ill feelings towards the company. I just feel that this is something, a cause, that I believe in and I think parents and mothers should be granted more time than is granted now.

Senator DODD. Could you speak up a little?

Ms. SWISHER. I got two weeks before my due date off, paid; and I got six weeks after, paid. Towards the end of my leave, I realized that Linsey wasn't going to be out of her brace. She was in a body brace, a cloth brace for her dislocated hip.

At the time I wasn't sure of my options so what I did was that I wrote a request for a leave of absence to my employer and the leave of absence was granted, but I was told that I would need to get a letter from Linsey's doctor saying that I needed to be with her. Then once I got the letter and the leave would be granted, they would not be able to guarantee my job or my salary.

So my initial request was that I get a year off but, depending on her condition, I could return sooner. They granted a leave of absence for 60 days. The 60 days was recently up and when I approached my employer about my options at this point, I was told that I could come back but the only job available would be in a position that was lower than the one I had left. It was making substantially less money. So, at this point, I turned it down and I am waiting to hear from them on whether or not I can extend the leave.

She is out of the brace now. We have to go back next month and make sure that her hip still feels good. I had the 60 days off and when I went back the job wasn't there, so I think that maybe if this bill would be passed, it would help people in my position to not have to worry so much about their job and to be able to concentrate on getting their child well.

Senator DODD. Well, you did pretty well without prepared testimony.

Ms. SWISHER. Thanks.

Senator **Dodd**. What is your child's name?

Ms. **Swisher**. Linsey.

Senator **Dodd**. I would be worried if I were Senator Simon or Senator Dixon as she seems to be a natural politician, seeking that microphone all the time.

Doctor, we welcome you and we will be glad to hear from you and then we will come back to you, Phyllis, on either end of the table, and then we will have some questions.

STATEMENT OF DR. JAY BERKELHAMER, PEDIATRICIAN

Dr. **Berkelhamer**. Thank you, Senator Dodd.

In addition to my responsibilities that you mentioned at the University of Chicago, I am a general pediatrician and I practice on Chicago's Southside. I'm also a spokesperson for the American Academy of Pediatrics, immediate past president of the Ambulatory Pediatric Association and the current president of the Chicago Pediatric Society. I am here today on behalf of these groups to discuss the importance of parental leave from a pediatrician's perspective.

We recognize the first few months of life as a significant period of growth and development for both the infant and the new parent. Infants are particularly vulnerable during this time and require the active involvement of both parents in the nurturing process. The parenting skills that are acquired during this period are essential in the formation of a healthy parent-child relationship. Adopted children and their parents also require several months to form physical, as well as psychological, attachments.

Another time when a child's physical and emotional well-being heavily depends on parental participation is during a serious illness. Children have increased dependency needs when they are sick, and require the unique warmth and security only their parents can offer. Allowing parents the option to care for and comfort their seriously ill child is a sound pediatric practice.

Changes are occurring in the work force that have a major impact on families. Interestingly enough, Senator, of our first-year trainees at the University of Chicago, in Pediatrics, 17 of 22 are women. As women enter the work force in increasing numbers, more and more infants are born into homes where both parents work. A new addition to the family precipitates changes to which the family must adapt. During this period of adjustment, parents develop skills that enhance optimal physical and emotional growth of their child. Once parents and babies establish a solid attachment to each other, a smoother transition back to work is possible and increased job satisfaction is likely. However, too few work places provide what we would consider adequate flexibility to allow workers to carry out their parenting responsibilities.

The stability and economic well-being of both families and employers are vitally important to our society. It is time to address the changing face of American work and family life with reasonable solutions that recognize the value of families while balancing the needs of employers.

We understand that the introduction of a national leave policy might require restructuring benefit packages and changing operational procedures. Nonetheless, the health, growth and development of American families warrant these efforts. With the input and cooperation of employees and employers representing a broad range of business interests, the goal of establishing a national parental leave policy can be achieved.

The importance of parental involvement in a child's development cannot be overestimated. As pediatricians and child developmental specialists, we support these efforts on behalf of children. We compliment you, Senator, on your efforts to design practical solutions to work/family issues that respect both employers and employees. Two-working parent families, as well as single parents who must work, are a constituency whose needs still need to be addressed. The demands of job and home must be balanced, if we are to have excellent workers and competent parents.

Parents can work and have healthy families with our help. The need for stronger families in our society has been well documented. Let us begin to take steps necessary to achieve this goal.

Senator DODD. Thank you very much, Doctor, for that testimony.

[The prepared statement of Dr. Berkelhamer follows:]

American Academy of Pediatrics

STATEMENT

ON

THE PARENTAL AND MEDICAL LEAVE ACT

PRESENTED BY

Jay E. Berkelhamer, M.D., F.A.A.P.

September 14, 1987

Office of Government Liaison
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Good morning. I am Dr. Jay Berkelhamer, professor and associate chairman of the Department of Pediatrics, University of Chicago Pritzker School of Medicine. I am in general pediatrics and practice on Chicago's Southside. I am a spokesperson for the American Academy of Pediatrics, immediate past president of the Ambulatory Pediatric Society and president of the Chicago Pediatric Society. I am here today on behalf of these groups to discuss the importance of parental leave from the pediatrician's perspective.

The American Academy of Pediatrics, an international organization representing more than 30,000 pediatricians specializing in the care of infants, children, adolescents and young people, has an active commitment to improving the health status of these patients and enhancing the quality of family life.

The Academy recognizes the first few months of life as a significant period of growth and development for both the infant and the new parents. Infants are particularly vulnerable during this time, and require the active involvement of both parents in the nurturing process. The parenting skills that are acquired during this period are essential in the formation of a healthy parent-child relationship. Adoptive children and their parents also require several months to form physical as well as psychological attachments.

Another time when a child's physical and emotional well-being heavily depends on parental participation is during a serious illness. Children have increased dependency needs when they are sick, and require the unique warmth and security only their parents can offer. Allowing parents the option to care for and comfort their seriously ill child is sound pediatric practice.

Changes are occurring in the work force that have a major impact on families. As women enter the work force in increasing numbers, more and more infants are being born into homes where both parents work. A new addition to the family precipitates changes to which the family must adapt. During this period of adjustment, parents develop skills that enhance optimal physical and emotional growth of their child. Once parents and babies establish a solid attachment to each other, a smoother transition back to work is possible, and increased job satisfaction is likely. However, too few work places provide what we would consider adequate flexibility to allow workers to carry out their parenting responsibilities.

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Parents can work and have healthy families with our help. The need for stronger families in our society has been well documented. Let us begin to take steps to achieve this goal.

Senator DODD. Phyllis.

STATEMENT OF PHYLLIS NICKEL

Ms. NICKEL. Good morning. I'm Phyllis Nickel. I represent the Family Resource Coalition, which is a national association of programs who work with parents and children. Our members work every day with the parents who echo the concerns you heard voiced here today. We also have a number of professionals, pediatricians for example, who work in our organization.

We have heard about the specific and particular situations of these families. While they are unique, they are at the same time similar to the experiences of thousands of families across the country for whom I speak today.

The Family Resource Coalition is a national, nonprofit information and advocacy membership group coordinating efforts to expand and share knowledge about and among community-based parent and family education and support programs. Our member programs provide information, education, support and empowering activities for thousands of parents throughout the nation. These programs are housed in community centers, hospitals, housing projects, churches and temples, office complexes, day care centers, military bases, and schools—from the barrios to Beverly Hills; and from Manhattan, New York, to Manhattan, Kansas. They have emerged in the past 15 years in response to the realities of our changing society—isolated parents, far from their usual sources of support and knowledge in the critical task of raising children.

Just as our representative programs come in every shape, size and form, so do these families. They represent every economic, racial and ethnic group. They are completely individual and yet they have many things in common.

Family resource programs share the following fundamental principles:

Parents want to be good parents and to do what is best for their children.

Raising children is tough work and it requires a great deal of support.

Strong families are vital to the future of the nation.

Parents, all parents, deserve to be supported in this most critical responsibility—raising children.

Unfortunately, as we all are too aware, policies and practices in our society have not kept pace with the changed realities facing today's parents. We have heard about the changing demographics earlier. Indeed, these often impede the ability of parents to do what they know is most important for their children.

You have already heard about the sensitive and vulnerable time after the birth of a baby and about the importance of the first few months of life to the future well-being of both, parents and children. I will not repeat that information, but we need to keep it in mind. It always needs to be at the forefront. This period is naturally the time when parents most need and want to be able to have the right to parental leave. This need becomes even more urgent, if an infant is ill or premature.

As a representative of the thousands of parents and hundreds of programs connected with the Family Resource Coalition, I want to share with you what we know about family life today, based on what parents have told us:

We know the American family will not return to the "Ozzie and Harriet" model of father going off to earn money and mother staying home caring for 2.3 children.

We know that parents are eager to do the right thing for their children.

We also know that parents are frustrated, angry, stressed, and hurting, because social conditions make it harder to meet the needs of their children, especially the very young children.

Specifically, as we have heard, for too many parents the bottom line becomes a terrible dilemma: Will I lose my job if I stay home as long as my baby needs me? Do I have to risk harming my baby because of a threatened loss of work? Do I have to choose between the income necessary for survival and the emotional stability of my family?

We know what the demographics are. We know that women plan now to stay in the labor force permanently. In our mothers' generation, they tended to come in and out, a little bit here and a little bit there. Now the projection is that 80 percent of the women in the workplace, not only will become pregnant during their work lives but may work as long as 40 years.

When a baby is born, families go through total readjustment. As we heard, it is a stressful, chaotic, demanding period and in the best of circumstances, the family is surrounded by relatives, friends and neighborhood people who offer information and support; not today. So, in addition to the normal physiological and developmental needs of families to get acquainted with their babies, there is no one around to help them with that, to be there in times of stress.

For new parents, there are no extended family and community. As a result, parents go it alone, learning their new roles, adjusting to the challenges of a demanding newborn, arranging adequate child care, and all too often worrying about money. If you add to that the pressure and fear of trying to comply with an employer's demand to return to work too soon, you've got big trouble.

It is little wonder we hear that families are hurting and angry. On the one hand, we extol the virtues of family life and being good parents. On the other hand, we deny a basic and fundamental opportunity to contribute immeasurably to the future well-being of children and families—adequate time after birth or adoption or during a serious illness, to establish emotional bonds and patterns that are the baseline for growth and development.

The lives of families are demanding enough without the additional burden of policies which totally ignore what we know about children and their families.

Perhaps we need to look beyond a quarterly profit statement. The widespread resistance to consideration of the parental leave policy sends a clear message to parents in the work force and anyone else who is listening. That message seems to be that the job of parenting could never be as important as a paid job. One's contribution to the employer is more significant to society than rearing future citizens and workers. Do we really believe this?

Parents would like to think that we really do care about our families and babies, our future citizens and workers. No wonder work-force parents shake their heads in amazement at our apparent priorities. After all, who could contest the goal of raising a society of well-adjusted, competent, bright and able people? Children need parents who can provide for their physical as well as their social and emotional needs. What is at stake here may indeed be the stability of the American family, in whatever form it takes.

Parents are waiting for the message that their parenting job is respected and valued by society and that, in turn, society will do what is necessary to support rather than impede their efforts.

Passage of a sound, thoughtfully conceived parental leave bill is the first step in a body of policy decisions that will indeed support families. Families are looking for leadership which recognizes their circumstances and appreciates their contributions and sacrifices. If this Committee shows leadership, families will respond.

If I could say anything to the legislators considering this issue, it would be that families are really suffering. They are doing all they can for themselves and they are doing a good job in the face of all sorts of obstacles. They need concrete acknowledgement from their government leaders that what they are doing in their job as parents is recognized as valuable. Parents are seeking to be treated with respect for their task of childrearing. I can assure you that, if you stand with parents on this issue, you will have taken that first step and you will have the support of families across the nation. Thank you.

Senator DODD. Thank you very much, Phyllis, for your testimony.

I just have some questions for some of you. Mr. Patrick, I will begin with you, if I can, since we started with you.

It wasn't clear from your testimony. Did you lose your job as a result of trying to take care of Toby?

Mr. PATRICK. I lost close to six jobs, Senator, in the past sixteen years, related to the fact of whether to support my son or go to work. I would like to give you an example of a situation that occurred.

Senator DODD. Yes.

Mr. PATRICK. I worked for a major liquor distributor as a sales manager, and my wife, who is a nurse, had to work. We both had to work in order to support our family, financially.

I left home one day to attend work and I left my son home. At that point I didn't think he was gravely ill. Had I known that, I would not have gone to work. Toby called me and told me, "I am gravely ill and contacted the doctor." I, in turn, hung up the telephone and I told Toby to relax and gave him as much supportive conversation as possible, and I called his doctor. I told the doctor the situation, that I was at work and that Toby was at home and that I did not think that Toby was that ill. He, in turn, asked me again, "Mr. Patrick, where are you at?" and I told him that I was in Chicago at my office. He said, "Well, where is Toby?" I said, "He's at home in Bolingbrook." The doctor then informed me, "Mr. Patrick, if you don't leave right now, I will have to seek out the authorities to have you arrested for child neglect." I, in turn, informed my immediate supervisor or manager, which is the vice-president of the company. He gave me permission to leave. However, after this occurred a couple of more times, when Toby was undergoing either grand mal seizures or petit mal seizures which required our immediate attention, he told me that I had too many problems, and I was discharged from my job.

Senator DODD. What about your present situation?

Mr. PATRICK. Two weeks ago I had just picked my son up from the hospital, from the dialysis unit, and my wife dropped me off from work. My wife proceeded home with my son and we got a call from the hospital informing us that they thought that they had a kidney for Toby and we have been waiting since 1982 for another transplant. The excitement was somewhat overwhelming. I, in turn, made abreast as many of my supervisors as possible the fact that I had to leave and go to the hospital, and my wife, in turn, was on the way steadfastly, you know, to get to the hospital to do the necessary tests for the donor match. Well, when I called back to work to find out if everything was okay and everybody was aware of what my status was, I was informed that I would be docked and suspended a day. It was stated to me that those were the rules and regulations of the department. I'm currently a Cook County Deputy Sheriff in the Department of Corrections.

Later on that night, after the tests had gone through, they found out that the kidney would not work because my son was incompatible with the graft. It was sad but at the same time the doctor informed me that fifteen years ago, without these tests, they may have gone through the exercise of transplanting a donor's graft only to fail, and needless to say, the operation is without risk.

I also informed my employer that had I to do it all over again, there is not very many things I would do differently.

Senator DODD. We hope Toby will have an opportunity to get that transplant.

Mr. PATRICK. I would also like to say this, Senator Dodd. There should be more. This bill certainly is not an end-of-all situation for chronically ill or acutely ill children. However, it is certainly a step in the right direction. There should be more education about donor grafts and I wish there would be more emphasis toward that because, like Toby, and kids, like I have said—let me reiterate again—like kids in similar situations, kids will and can make a contribution, if we continue these kinds of support mechanisms, as well as education.

Senator DODD. I appreciate that. I think there is a lot more attention paid now to the question of transplants. There have been hearings in Congress on the issue of medical transplants and the problems associated with them, both medically as well as some of the legal questions and the like. So there is a great deal more attention now than there has been. I appreciate you bringing up that point as well.

Mr. PATRICK. Thank you, too, Senator.

[Information supplied follows:]

In Brief

Lincoln Park was the setting for the first annual pediatric dialysis/kidney transplant program reunion. Child life specialist Jeanine Nigro coordinated the afternoon, filled with badminton, baseball, and water balloon toss games. Eddie S. Moore, M.D., director, Section of Pediatric Nephrology, takes a "picnic break" with Toby Patrick.

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Senator **Dodd**. Lucille, you have been through the adoption process which is tremendously encouraging. I wonder if the hospital where you worked would have given you time off to take care of those newly adopted children.

Ms. **Thervil**. No, they would not. I informed my superiors about the adoption and they thought it was a great idea but, as far as taking time off, there was no available time. They couldn't cover my job. That is what they told me. So I had no other choice. I adopted my son on a Tuesday and I was scheduled for work the next day.

Senator **Dodd**. What are the major stumbling blocks? Now, the children you adopted, were they special needs children?

Ms. **Thervil**. No, they were not. My first son was five months and my daughter was two months and the newly born baby was seven days old, so there was no——

Senator **Dodd**. Complications of any kind?

Ms. **Thervil**. No.

Senator **Dodd**. Have you become familiar at all with special needs adoptions? Do you know what I am talking about? Those are the cases——

Ms. **Thervil**. Yes.

Senator **Dodd**. Are you aware of families, who want to adopt or did you get to know people who wanted to be prospective adoptive parents?

Ms. **Thervil**. Yes.

Senator **Dodd**. How often did you run into, just in those associations, hearing of difficulties in proceeding along with the adoption? Adoptions are something all of us approve of and would like to see more of and yet how often do they conflict with the jobs of prospective adoptive parents? Did you see that often?

Ms. **Thervil**. Just to give you an example, my neighbor that lives across the street from me was really waiting until we adopt first because I had told her what we were going to do. After things worked out so well with the first child, her husband and her decided to adopt because things worked out very well, and their situation is much worse than mine because both of them are policemen and they work all kinds of hours. They are able to cope with that. And, as time went on, we adopted the second child, and now the third child. A lot of people that I know are really beginning to open up because they see that things are working out. Dealing with all of the other problems that we had, you know, that doesn't stop people from doing what they want to do and that's what we decided to do.

Senator **Dodd**. I appreciate it. I loved your comment at the end that you would do it all over again.

Ms. **Thervil**. I would. I would.

Senator **Dodd**. That is marvelous.

I brought up the special needs adoptions for a reason. I am going to ask our resident professionals here in a few minutes about their comments on the importance of bonding, not only with a newly born child but particularly with a newly adopted child. Adoption can create a unique and special kind of stress. But just for the purposes of your information and for others who are here, I have mentioned special needs adoption. One of the things that I have to do as Chairman of this Subcommittee sometime this year is reauthorizing the legislation that supports special needs adoption. As I mentioned in my opening statement, these are the most difficult to place children, because of their mental or physical difficulties or age, and the like. And there are remarkable people, just fabulous people in this country, who, out of a deep commitment of love and caring, are willing to take on these children who no one else would have because of the problems that they face. But agencies that handle special needs adoptions will tell you that there is no way that they would allow a prospective parent, or parents, to take these children unless one or the other of the two parents is willing to make a substantial investment of time to be with those children. Such children need that kind of consistent period to be with the new parents. The irony is that many, in fact the overwhelming majority of people who are willing to take these children and provide them with homes don't come from the most affluent part of our society. Many of them are poor people. I will guarantee you right now that I will not get one opposing vote on the special needs adoption legislation, not one. I'll win every vote in the Senate. I will probably pass the reauthorization of special needs adoption unanimously on a voice vote. No one opposes it. It is just a question of settling on whatever the funding level is going to be and that ought to be relatively easy to take care of. Everyone will support that bill. Yet the same people who support that bill, if I turn around and ask them to support legislation that would make it possible for parents to keep their jobs in order to be able to adopt those kids, will vote against it. That is the great inconsistency and that's why I pay particular attention to that special needs adoption area.

I commend you for what you did. I think you are terrific.

How are the kids doing?

Ms. THERVIL. They are fine.

Senator DODD. I think they are lucky. I think they have a nice mother. It makes a difference.

Ms. THERVIL. Thank you.

Senator DODD. We have two doctors here; three, and more, I guess, but particularly the two of you, Dr. Bowers and Dr. Schreier.

Let me just ask you the question that I was going to bring up earlier, the whole question of stress. You talked about it, Dr. Schreier, very eloquently. You walk through those doors every day and see those other children, other families, that are not as lucky. Yo see the stress, and the tears, and the numbness of people sitting there wondering whether or not the jobs will be there for them when they get through trying to be with their children. How important is the job security element? Either of you may comment on just the patients that you see and the families that you see.

Dr. BOWERS. I think we are fortunate in that I have shared some of Dr. Schreier's experiences and now see some-what a different slice of people who are battling some of these problems on a day-today basis in my clinic. But, certainly, I think the experience of anyone in pediatric training now is that not only do we have the babies, the kids, the teenagers, themselves, to deal with on their illnesses, but their parents invariably have overwhelming social problems, most often having to do with finances and jobs and care of other children at home, other younger or older children who are affected by child's illness. It is wrenching for them to have to take a moment to ask you, "Well, now that you have told me about how Toby is doing, can you tell me if there is anything I can do about my job, my work, my home? Does the hospital have any resources?" I think we all know the answer to that in the current economic situation.

Senator DODD. Yes.

Dr. BOWERS. It is very difficult for us. We feel guilty all the time, I think, about the people that we confront, those of us who have healthy children and those of us who have jobs that are not threatened.

Senator DODD. This is not an uncommon question you get?

Dr. BOWERS. Every day.

Senator DODD. Every day. Doctor, if you want to comment on that, let me ask this as well and you may comment on this point.

In your medical school training, was there any emphasis at all on trying to cope with this particular aspect of things, at least with counseling or advice? I don't know if that——

Dr. BOWERS. None at all.

Generally speaking, we know nothing about available agencies. It is hard for us to find people who do know about available agencies and most understaffed hospitals have incredibly overworked social workers who have everything that they can do just to get kids placed in long-term care facilities or whatever. They have very little time and I am sure Mr. Patrick can speak to that, and anyone else here, to help with the "nuts and bolts" of where is the bread coming from.

Dr. SCHREIER. Being a referral hospital, we take care, also, of a lot of people not in the Chicago land area and, thankfully, we have had a Ronald McDonald House for one year now. I think the parents get a lot of help there. I can remember a time, as can Dr. Bowers, when parents stayed or slept on couches in the lobby, on floors in the lobby. I can remember times when we passed the hat among the residents for meal tickets for them and I have given old lunches that a resident was too busy to eat to parents.

Senator DODD. I'm sorry.

Dr. SCHREIER. I have given old box lunches that residents have left in the refrigerator to parents who just had no more money left for meals from our cafeteria.

I have written letters to the Army, to various employers, stating the necessity for parents to stay there. A child is a stress on a marriage. A sick child is a stress on a marriage and I know we have all experienced parents who have gone for separations and divorces in direct conjunction with their child's illness. Therefore, you have a woman, perhaps, on limited alimony, child support, again trying to care for her children.

Senator DODD. You have both talked about the stress. Is it common for you to run into situations where one of the parents, or both, have either lost their jobs or have had the threat of losing their jobs? Obviously, the threat of loss is always there, but those who have just flat-out lost their jobs, have you run into that because of the ill child?

Dr. BOWERS. I have no idea how many times. I couldn't possibly tell you how many times.

Senator **Dodd**. Dozens and dozens of times?

Dr. **Bowers**. Yes, more than I can remember.

Dr. **Schreier**. But, again, most parents feel that their child's illness is Prime No. 1 consideration. They are talking to us about the child, about what they can do, and they very seldom bring it up. It is sometimes things that we find out later.

Senator **Dodd**. By the way, the American Academy of Pediatrics has been terrific on these issues. How am I going to get the AMA to support this? I don't understand why the American Medical Association doesn't support something like this. This is pretty much a health issue, a family health issue. What is the problem? Why am I having difficulty getting the AMA to support something like this? See, I've got three physicians here. So, I can't resist asking.

Dr. **Bowers**. Dr. Berkelhamer is certainly an expert on that. My feeling is that the AMA has for a long time not represented the mainstream of medicine. I would like to think that the mainstream of medicine would support this bill.

Dr. **Berkelhamer**. I would just say to you that the American Academy of Pediatrics represents 30,000 practicing pediatricians in the United States. I am not a member of the AMA. I have been a physician for over 20 years.

Senator **Dodd**. I think I got my answer, if I interpret that correctly.

Dr. **Schreier**. None of us are members of the AMA. None of us are members of the AMA, the three of us.

Senator **Dodd**. How many physicians are not members of the AMA?

Dr. **Berkelhamer**. It is a problem today because many of the physicians entering practice and starting their careers are not joining the AMA and so the AMA is trying very hard to bring new physicians into the fold and I expect the AMA, not speaking on behalf of the AMA or as a member of the AMA, will be in a position where they will have to reassess not only their stand on this issue but many more, if they really want to be an organization that embraces the entirety of the medical profession.

Senator **Dodd**. I'm glad to hear that. I hope you have some effect on them because I find it terribly disappointing on issues like this that they are not just totally unsupportive.

Mary, how is Linsey doing?

Ms. **Swisher**. She is hungry, but I think she——

Senator **Dodd**. I think Linsey is a Republican.

Dr. **Bowers**. She is offended. No one asked her.

Senator **Dodd**. Mary, I was interested and I have been told that you and your husband were able to plan financially for you to take leave. One of the questions that I get, as I mentioned it in the opening statement, is whether this is a Yuppie bill. That will be one of the criticisms made here today, although I find it somewhat ironic, considering the source of the criticism. The notion is that this is really a bill that is only going to affect a small number of people because it is unpaid leave: "Senator, if you really wanted to do something to be helpful, you would make it paid leave." That will come from the people who oppose the legislation. I find it somewhat interesting that they are suggesting that somehow this ought to be paid leave. And yet what we have found is that in the case of adoptions and births, families do prepare. I mean, they realize it is going to be an additional economic burden and so they either set aside money or they do other things. Obviously, illness is not something you can prepare for. And, obviously, you and your husband didn't prepare for Linsey to have a displaced hip along the way. But I do gather, and I have been told anyway, that you did, in preparation for having Linsey, begin to do things to build up the savings and the like. Do you want to comment on that at all?

Ms. SWISHER. Yes. We did save money. We have a savings account. We had prepared for the event that after six weeks, if I didn't want to go back right away, that I wanted to spend more time with her. We were hoping that, if I could ask for more time, this money would help. Well, it turns out I did have to ask for more time because of Linsey's hip. When I did ask for the extra time because of her hip, they said that I needed to get a letter from her doctor because they didn't want everybody to think that I was just getting the time because I wanted to spend it with my baby. I didn't think that would be too unreasonable either, if she didn't have a dislocated hip, but I guess it is, the way things are now, and that's why I am here today, because I would like to change that for other people, even if their child doesn't have an illness or an injury like Linsey did.

Senator DODD. Did your husband try to take any time off?

Ms. SWISHER. He took vacation time when I was first home, but he didn't take any time off for her hip, no.

Senator DODD. What would have happened, if he had gone to his employer and asked for some time off because Linsey was not well and he needed to be with her?

Ms. SWISHER. I'm sure they would have turned him down. I can't say I am sure because I don't know the policies where he works, but we didn't feel that it was necessary for him to stay home with her at the time because we felt that if one of us could stay home, at least, that would help her. So he never really considered that.

Senator DODD. Now, you lost your job?

Ms. SWISHER. No, I haven't lost it. The leave period was up recently and I had contacted my employer and that is when they came in with the offer.

Senator DODD. Of 60——

Ms. SWISHER. Yes, and substantially less money. And then they had told me that if I do come back that once there is a position like the one that I had when I left, they would certainly put me in that as soon as they could and bring me up to where I was. But, at this point, I did turn down the job that pays less. I am waiting to hear if I can extend my leave. It has been about a week now and I haven't heard.

Senator DODD. Just as an editorial comment, I find when most employers actually know the employees in question, they are pretty sensitive and try to be helpful on some of these things. That is when employers know of there are burdens on workers that they have to cope with. The difficulty comes when employers don't know the employee. If it is their secretary, if it is their assistant, if it is one of the vice-presidents or someone that they know, who comes in with a problem, there is no difficulty. It is when employers are dealing with workers in their firms whom they don't know. Then it is just part of policy and the employees are just numbers. Those are the employees who really get caught in this thing. There are exceptions, obviously, but I find, by-and-large, that is the case. I also know a lot of employers who themselves have gone through these situations themselves. A good friend of mine is one of the major bureau chiefs in this country and had, in the past, been rather conservative on these issues. Then all of a sudden he had a child who was sick and he wanted to spend some time with that child. Nothing like a good fact-situation at home brings the issue right around. He, all of a sudden, discovered life wasn't that easy for him, let alone for someone who might have worked in the print room of the paper or down the line who didn't have a position of authority.

Phyllis, in the Family Resource Coalition you deal with the other end of this whole issue, when people run into these difficulties and face the problems of losing jobs and the like. Your statement was eloquent and really answered an awful lot of questions that I had. Just statistically, and I don't know what sort of information you can give us on this, but what percentage of the people you see have lost jobs because of family-related situation where there is an ill child or a newborn child. How often do their employers not hold jobs for them?

Ms. NICKEL. I would like to be able to answer that question. We don't happen to have data, that discreet kind of data. What we have is a lot of anecdotal material. I asked some people why don't they have data and they said, "People are afraid to tell us what has happened to them because they are not sure how it will be heard or what kind of repercussions there will be." We could find you the people who would know those answers, but right now I couldn't give you any hard figures.

Senator DODD. Of those you do see, how many of these parents have had to go on public assistance of some kind or other?

Ms. NICKEL. Again I really couldn't tell you that. The reason is that our organization is a support mechanism for programs and those programs are not required in any way to submit data to us about those kinds of things. I am sure we could help you be in touch with people who could.

I guess I would like to say that I think sometimes, in terms of productivity and ability of the work force to maintain their strength, it isn't always just the reality of a lost job but the threat of a lost job.

I was talking to some people who work in workplace programs and they said, "When people are worried and when people are scared and when people are away too soon from their babies, they tend to be much less able to produce, than they would be if they felt sure that when they could go back everything would be in place." So I think in some senses, loss of jobs is a terribly real threat and it happens more than we care to think. The threatened loss of jobs takes away tremendously from families.

Senator DODD. Dr. Berkelhamer, when you see parents with sick children or injured children, and that parent has just been informed or realizes they have lost their job, how does that affect them?

I guess the first question I have for you, and I would ask Dr. Schreier and Dr. Bowers as pediatricians, if they want to comment on this as well, is: How important is it for parents to be with a sick child? I think that is an important question which I should have maybe emphasized during my earlier remarks. I happen to believe that it is so important that parents be with ill children. While the doctor can take care of the physical problems of that child and provide a great deal of care and sensitivity, the parental-child relationship during the period of the child's illness with all that positive reinforcement by parents, must be a significant contributing factor to that child's recovery. I have always felt this but I wonder how important you believe that is. And, conversely, when a parent is going through the tremendous stress of wondering whether or not the job is there, as Phyllis has just talked about, how does that affect a child's recovery? Even if the parent hasn't yet lost it, how does worrying about if they are going to lose their jobs affect that relationship between parent and child during the period of the child's recovery?

Dr. **Berkelhamer**. Senator, your feelings on this issue are right on target and there is no question but that a child will cope with an illness better, if he has the support and attention of his parents during the course of the illness. There is no question that the parent will function in this role much better, if they don't have other extraneous things that are causing them to worry about whether they are going to be able to pay their bills, whether they are going to be employed sometime in the future.

I think that this really is a matter of just how much do we value children in our society and this is something that is, I think, a very strong statement, a very positive step. This says that children are important. They are important when they are born. They are important when they are sick. The role of a parent is very important and so important that we really have to make adjustments in the workplace in terms of general policy that will support that notion. And I can tell you as a physician, children that have illnesses, who have a family that can give the kind of support that is necessary, will do much better. They will be in the hospital for shorter periods of time, will make a fuller recovery, will be able to return to normal activities, with this kind of support.

Senator **Dodd**. I have tried to find out whether or not some good Ph.D. student has done an analysis.

Dr. **Berkelhamer**. I don't have studies to give you this morning, but there are studies like that. There are. Maybe Genie knows of one. There are studies for children and adults that state of mind has a lot to do with how you cope with an illness.

Senator **Dodd**. This is good empirical evidence?

Dr. **Berkelhamer**. There is no question about it.

Senator **Dodd**. If you could give us a hand and help us try and track down some of those things, it would help.

Dr. **Berkelhamer**. We will get you a couple of articles.

Senator **Dodd**. You have all been very gracious and helpful in this first panel. I have kept you a long time and apologize to you for that. We may have some additional questions for you, if we could submit them to you in writing. You can respond in writing as well.

We thank you, Mary, for bringing Linsey along. Now that your testimony is over, Linsey has gotten quiet. But, again, we thank you for being here this morning.

And you are more than welcome, of course, to stay and listen to the rest of the testimony.

Thank you all very much.

Our second panel of witnesses will include policymakers from the states of Illinois, Minnesota and Wisconsin. They have all been very key players in putting into place local and state policies on parental leave and so we look forward to hearing from them on the effects of such policies on employers and employees.

I don't know if my former colleague and dear friend is here. Her mother has not been well, but Congresswoman Cardiss Collins, who has been a lead sponsor, I might point out, of the pending House legislation on parental leave, wanted to be here with us this morning, but I understand that because of her own family situation she will not be with us. However, she might arrive yet.

Peggy Montes is on the Mayor's Commission on Women's Affairs in the City of Chicago. We invite you, Peggy, to join us at the witness table. She is the Executive Director of the Mayor's Commission. She is also the mother of two grown children. So she comes here with both professional and practical experience in some of these matters.

Representative Barbara Flynn-Currie. Barbara Flynn. I don't know why they put that on. She will be here and I will tell you who she is. Barbara is the co-chair of the Citizens Council on Women. She sponsored the legislation enacted in 1983 to provide parental leave for Illinois employees and is now working on legislation to provide parental leave for all Illinois residents.

She is also the mother of two children and knows, obviously, the importance of parental leave firsthand.

Senator Donna Peterson of the Minnesota State Senate, we welcome you, Senator. Donna was the chief sponsor of the parental leave legislation that just went into effect in Minnesota. These people are having great success out there. I'm still dragging along here, but this is going to be done on a state-by-state basis by the time we get done. In fact, Minnesota beat all of the states, including my home state of Connecticut. I was incorrect. I said that Connecticut was the first state that adopted a parental leave policy. It was quickly corrected in California. I want you to know that Minnesota actually had the first leave policy.

Senator John Plewa, did I pronounce that right?

Senator Plewa. Yes.

Senator Dodd. John is the chief sponsor of the family leave bill now pending in the Wisconsin State Senate. Senator, we are pleased to have you with us. He is also the father of a young son and so, again, has firsthand experience.

I appreciate your patience in waiting here this morning.

Is Linsey being interviewed? [Laughter.]

Senator Dodd. We will be going through witnesses and so forth. Hopefully, we are going to spend the rest of the morning here, since I am interested in your comments afterwards about some of the comments that are being made.

Let me begin with you, Peggy, with your testimony. Again, if you were here at the outset, and I think you were here in the audience, your statements will be made a permanent part of the record.

STATEMENT OF PEGGY MONTES, MAYOR'S COMMISSION ON WOMEN'S AFFAIRS, CHICAGO, IL

Representative COLLINS. Thank you.

Ms. MONTES. Good morning, Mr. Chairman.

I'm here this morning to express the City of Chicago's support for comprehensive parental and medical leave legislation which will help meet the needs of working parents and strengthen American families.

With this legislation, working people will be able to take proper care of their newborns, sick children, or parents, without fear of losing their jobs. A reasonable amount of benefits coverage will ensure minimum protection for the majority of working parents.

The richest country in the world must follow the example of every other industrialized nation and acknowledge changes in family structure, the increasing presence of women in the labor force, two-wage earner families, female-headed households, and the enhanced longevity of our citizens. We must invest now in the future of our society. Because our children are that future, social policies such as those embodied in the Parental and Medical Leave Act must be enacted.

Previously you gave the demographics, so I will not go into the demographics in terms of what is happening about the increasing number of women coming into the work force. However, we need a national parental and medical leave policy now because most workplaces have not yet adjusted to meet the needs of the increasing number of women in the labor force.

Women with children have two jobs, that of caring for their families and bringing home a pay check. Balancing these two roles without needed support is difficult, if not impossible. Family life suffers and economic viability diminishes. Job opportunities for these women are limited and they often miss pay increases and promotions.

The lack of uniform parental and medical leave policies in the workplace has created an environment where discrimination is rampant. Very often we are contacted by women workers who are at risk of losing their jobs or have lost them because they are pregnant, given birth to a child or took a leave of absence to care for a sick child.

Last week, for instance, we were contacted by a woman who exemplifies the problems women meet. She is a word processor, an exemplary employee, who often received compliments for her work. Recently she took a disability leave to give birth. When she was pregnant and still at the office, she tried to discuss her leave of absence with her boss and was told that they would try to have her job open when she came back after the baby's birth. As the time of her leave approached, she saw that a position with the exact job description of her own job was being posted. When she inquired about it, she was told that it was a new position being opened. While on leave for less than two months, she contacted her employer to schedule her return. Only then did she learn that the job being posted while she was still at the office was her own. And she was told she could come back to work but only on a part-time basis. To make matters worse, she also found out that a co-worker of a different race, with the same job title and seniority status, was given the same disability leave of absence and got back her job back without any problem.

As we can see, it is not enough to have abstract antidiscrimination policies. We also have to provide employers with a "threshold" from which they can start to build employee policies to meet the needs of men and women, young and old, regardless of race.

In the past few months, the City of Chicago has evaluated the benefits and the costs of a comprehensive parental and medical leave policy for its own employees. I am pleased to report that we are working to define such a policy. We are also starting a comprehensive evaluation of the status of child care in our city and expect to build an agenda to address this issue as well.

A national policy of the scope and depth of the Parental and Medical Leave Act is an act of self-preservation for this society. As a city and as a nation, we must acknowledge that we cannot have economic viability at the expense of broken families. Strong families and satisfied and productive workers are complementary and necessary for the survival and progress of our country.

Senator Dodd. Thank you very much.

[The prepared statement of Ms. Montes follows:]

STATEMENT OF PEGGY MONTES

TESTIMONY GIVEN BY THE CITY OF CHICAGO TO THE SENATE SUBCOMMITTEE ON CHILDREN, FAMILY DRUGS AND ALCOHOLISM ON THE PARENTAL AND MEDICAL LEAVE ACT OF 1987

September 15, 1987

GOOD MORNING MR. CHAIRMAN, AND SUBCOMMITTEE MEMBERS. I AM PEGGY MONTES, EXECUTIVE DIRECTOR OF THE MAYOR'S COMMISSION ON WOMEN'S AFFAIRS.

I AM HERE THIS MORNING TO EXPRESS THE CITY OF CHICAGO'S SUPPORT FOR COMPREHENSIVE PARENTAL AND MEDICAL LEAVE LEGISLATION WHICH WILL HELP MEET THE NEEDS OF WORKING PARENTS AND STRENGTHEN AMERICAN FAMILIES.

WITH THIS LEGISLATION, WORKING PEOPLE WILL BE ABLE TO TAKE PROPER CARE OF THEIR NEWBORNS, SICK CHILDREN OR PARENTS WITHOUT FEAR OF LOSING THEIR JOBS. A REASONABLE AMOUNT OF BENEFITS COVERAGE WILL ENSURE MINIMUM PROTECTION FOR THE MAJORITY OF WORKING PARENTS.

THE RICHEST COUNTRY IN THE WORLD MUST FOLLOW THE EXAMPLE OF EVERY OTHER INDUSTRIALIZED NATION AND ACKNOWLEDGE CHANGES IN FAMILY STRUCTURE, THE INCREASING PRESENCE OF WOMEN IN THE LABOR FORCE, TWO WAGE EARNER FAMILIES, FEMALE HEADED HOUSEHOLDS, AND THE ENHANCED LONGEVITY OF OUR CITIZENS. WE MUST INVEST NOW IN THE FUTURE OF OUR SOCIETY. BECAUSE OUR CHILDREN ARE THAT FUTURE, SOCIAL POLICIES SUCH AS THOSE EMBODIED IN THE PARENTAL AND MEDICAL LEAVE ACT MUST BE ENACTED.

THE DEMOGRAPHIC TRENDS ARE CLEAR: FIVE IN TEN AMERICAN WOMEN WORK OUTSIDE THEIR HOMES AND SEVEN OUT OF TEN OF THEM DO SO OUT ECONOMIC NECESSITY -THEY ARE EITHER SINGLE, WIDOWED, DIVORCED OR LIVING WITH A MAN WHO EARNS LESS THAN $15,000 A YEAR. NEARLY HALF OF THE WOMEN WITH CHILDREN UNDER A YEAR OF AGE WORK AND SEVEN OUT OF TEN WOMEN WITH CHILDREN UNDER THREE ARE EMPLOYED. IT IS ESTIMATED THAT BY 1990, SIX OUT OF TEN WOMEN IN THIS COUNTRY WILL BE IN THE LABOR FORCE. ADDITIONALLY, SIX OUT OF TEN WORKING FATHERS WILL HAVE WIVES WHO WORK. CURRENT TRENDS SUGGEST THAT NINE OUT OF TEN WORKING WOMEN WILL BECOME PREGNANT DURING THEIR WORKING YEARS, AND FATHERS TOO ARE CHOOSING TO PARTICIPATE IN THE REARING OF THEIR CHILDREN.

WE NEED A NATIONAL PARENTAL AND MEDICAL LEAVE POLICY NOW BECAUSE MOST WORK PLACES HAVE NOT YET ADJUSTED TO MEET THE NEEDS OF THE INCREASING NUMBER OF WOMEN IN THE LABOR FORCE. WOMEN WITH CHILDREN HAVE TWO JOBS: CARING FOR THEIR FAMILIES, AND BRINGING HOME A PAYCHECK. BALANCING THESE TWO ROLES WITHOUT NEEDED SUPPORT IS DIFFICULT IF NOT IMPOSSIBLE. FAMILY LIFE SUFFERS AND ECONOMIC VIABILITY DIMINISHES. JOB OPPORTUNITIES FOR THESE WOMEN ARE LIMITED, AND THEY OFTEN MISS PAY INCREASES AND PROMOTIONS.

THE LACK OF UNIFORM PARENTAL AND MEDICAL LEAVE POLICIES IN THE WORK PLACE HAS CREATED AN ENVIRONMENT WHERE DISCRIMINATION IS RAMPANT. VERY OFTEN WE ARE CONTACTED BY WOMEN WORKERS WHO ARE AT RISK OF LOSING THEIR JOBS OR HAVE LOST THEM BECAUSE THEY ARE PREGNANT, GAVE BIRTH TO A CHILD, OR TOOK A LEAVE OF ABSENCE TO

CARE FOR A SICK CHILD.

LAST WEEK WE WERE CONTACTED BY A WOMAN WHO EXEMPLIFIES THE PROBLEMS WOMEN MEET. SHE IS A WORD PROCESSOR, AN EXEMPLARY EMPLOYEE WHO OFTEN RECEIVED COMPLIMENTS FOR HER WORK. RECENTLY, SHE TOOK A DISABILITY LEAVE TO GIVE BIRTH.

WHEN SHE WAS PREGNANT AND STILL AT THE OFFICE, SHE TRIED TO DISCUSS HER LEAVE OF ABSENCE WITH HER BOSS AND WAS TOLD THAT THEY WOULD TRY TO HAVE HER COME BACK TO WORK AFTER THE BABY'S BIRTH. AS THE TIME OF HER LEAVE APPROACHED, SHE SAW THAT A POSITION WITH THE EXACT JOB DESCRIPTION OF HER OWN JOB WAS BEING POSTED. WHEN SHE INQUIRED ABOUT IT SHE WAS TOLD THAT IT WAS A NEW POSITION BEING OPENED.

WHILE ON LEAVE FOR LESS THAN TWO MONTHS, SHE CONTACTED HER EMPLOYER TO SCHEDULE HER RETURN. ONLY THEN DID SHE LEARN THAT THE JOB BEING POSTED WHILE SHE WAS STILL AT THE OFFICE WAS HER OWN. AND SHE WAS TOLD SHE COULD COME BACK TO WORK......BUT ONLY ON A PART TIME BASIS. TO MAKE MATTERS WORSE, SHE ALSO FOUND OUT THAT A CO-WORKER OF A DIFFERENT RACE, WITH THE SAME JOB TITLE AND SENIORITY STATUS, WAS GIVEN THE SAME DISABILITY LEAVE OF ABSENCE AND GOT BACK HER JOB WITHOUT ANY PROBLEM.

AS WE CAN SEE, IT IS NOT ENOUGH TO HAVE ABSTRACT ANTI-DISCRIMINATION POLICIES: WE ALSO HAVE TO PROVIDE EMPLOYERS WITH A "THRESHOLD" FROM WHICH THEY CAN START TO BUILD EMPLOYEE

POLICIES TO MEET THE NEEDS OF MEN AND WOMEN, YOUNG AND OLD, REGARDLESS OF RACE.

IN THE PAST FEW MONTHS THE CITY OF CHICAGO HAS EVALUATED THE BENEFITS AND THE COSTS OF A COMPREHENSIVE PARENTAL AND MEDICAL LEAVE POLICY FOR ITS OWN EMPLOYEES. I AM PLEASED TO REPORT THAT WE ARE WORKING TO DEFINE SUCH A POLICY. WE ARE ALSO STARTING A COMPREHENSIVE EVALUATION OF THE STATUS OF CHILD CARE IN OUR CITY AND EXPECT TO BUILD AN AGENDA TO ADDRESS THIS ISSUE AS WELL.

A NATIONAL POLICY OF THE SCOPE AND DEPTH OF THE PARENTAL AND MEDICAL LEAVE ACT IS AN ACT OF SELF-PRESERVATION FOR THIS SOCIETY. AS A CITY AND AS A NATION, WE MUST ACKNOWLEDGE THAT WE CANNOT HAVE ECONOMIC VIABILITY AT THE EXPENSE OF BROKEN FAMILIES. STRONG FAMILIES AND SATISFIED AND PRODUCTIVE WORKERS ARE COMPLEMENTARY AND NECESSARY FOR THE SURVIVAL AND PROGRESS OF OUR COUNTRY.

Senator DODD. With your indulgence, I am going to take about a one-minute recess and come right back. Let's take a two-minute break.

[A short recess was taken.]

Senator DODD. The Subcommittee will reconvene.

My apologies again to my colleagues from the respective two states, the State Senators and Peggy Montes, as well, for holding them up.

Let me move right to you, Senator Peterson, if you will share with us your comments. We are particularly anxious to hear from you on how you did it up there and what your colleague next to you is doing on this, as well, at the state level.

STATEMENT OF SENATOR DONNA PETERSON, MINNESOTA STATE SENATE

Senator PETERSON. Good morning.

In July of 1986, the Wall Street Journal quoted Secretary of Labor, William Brock, as saying, "The feminization of the work force is real and the country hasn't really effectively addressed the effect on the American family."

This year the Minnesota legislature addressed these concerns by adopting a parental leave legislation that became effective on August 1.

What I will do today is try to explain the Minnesota law, why we believed it was needed, and what were some of the obstacles we encountered along the way.

The Minnesota Parental Leave mandates a minimum of six weeks unpaid leave of absence on the birth or the adoption of a child, for the mother and the father. Nothing in the law prevents an employer from providing additional parental leave benefits. An employer in the law is a person, or entity, that employs 21, or more, employees at least one job-site. An employee is one that must work an average of 20 hours or more, per week, and have been employed for, at least, 12 months. The new parent can return to their former position or to a position of comparable duties, with the same number of hours and the same pay.

I believe we encountered two major obstacles along the way for the passage. The first was the myth that women already are entitled to time off on the birth of a child. We found that over and over and even among women who didn't realize they did not have this right.

We had a Minnesota legislative staff study conducted, studying companies in Minnesota with ten or more employees, and we discovered, contrary to that widely-held belief, that over half of the companies in Minnesota had no maternity leave policy. Only 8 percent had a policy on adoption and 4 percent had a policy for new fathers. In fact, we found many women telling us how they had lost their job due to the birth of a child.

The second obstacle was opposition from Minnesota businesses. The focus of their opposition was not the parental leave, as they believed men simply would not use it, rather that business simply could not function, if women employees were given time off for the birth of a child. Unlike 20 years ago, or even 10 years ago, many women are in the workplace and they are there to stay. Women, obviously, will continue to give birth to babies, but most are now expected to continue to contribute an income to their families as well. They must return to work. Giving birth is not something accomplished over the lunch hour or after 5:00 in the evening. So most women are expected to return to their jobs after that. Most women need at least six weeks to physically recover. Time off is necessary, with or without a parental leave bill. The question is: Will they have their job to come back to? Women in Minnesota now have that guarantee.

In Minnesota, women are a significant part of the work force. I think some of the statistics show that we are one of the higher in the nation. 63 percent of our women, Age 16, and over, are currently employed and, as has been stated earlier, similar to the rest of the nation, 80 percent of those women are in their childbearing years.

Many families in Minnesota today depend on two incomes and both parents must be employed. It is obvious, therefore, that women will continue to work.

I am proud of what we have accomplished in Minnesota. It is a statement that we value families. We are recognizing who that new family is. Mom wants her job back after the baby is born and dad is equally involved in parenting. What we passed in Minnesota is only a step in the right direction. It is my hope that a national policy can be established.

I also wanted to share with you that a friend of mine, who just returned from Sweden, brought me this poster. It is a poster of a father changing his son's diaper and this poster is put out by the Swedish government. The translation of the words I don't have exactly, but basically it is encouraging fathers to make use of the parental leave law.

Senator DODD. I would have thought that that might have been a compelling piece of testimony in Minnesota, particularly, if they had had that earlier.

[The prepared statement of Senator Peterson follows:]

STATEMENT OF SENATOR DONNA PETERSON
MINNESOTA STATE SENATE

In July of 1986, the *Wall Street Journal* quoted Secretary of Labor William Brock as saying, "The feminization of the work force is real," and the country hasn't "really effectively addressed the effect on the American family."

In 1987, Minnesota legislature addressed these concerns by adopting parental leave legislation that just became effective on August 1st.

What I will do today is explain the Minnesota law and why it was needed, and briefly describe obstacles encountered along the way.

The Minnesota parental leave law mandates a *minimum* of 6 weeks unpaid leave of absence upon the birth or adoption of a child for the mother and father. Nothing in the law prevents an employer from providing additional parental leave benefits.

An employer is a person or entity that employs 21 or more employees on at least one job site.

An employee must work an average of 20 hours or more per week and be employed there for at least 12 months.

The new parent can return to their former position or to a position of comparable duties with the same number of hours and pay.

Our greatest obstacles to passage were:

1. The myth that women already had six weeks of leave at thier place of employment upon the birth of a child. Based on a Minnesota legislative staff study, companies in Minnesota with 10 or more employees.we discovered, contrary to that widely-held belief, over half of those companies had *NO* maternity leave policy. Many women, in fact, had lost their jobs due to the birth of a child.

2. THE SECOND OBSTACLE WAS THE OPPOSITION WHICH CAME FROM MINNESOTA BUSINESSES. THE FOCUS OF THE OPPOSITION WAS NOT AGAINST PARENTAL LEAVE, AS MANY BELIEVED THAT MEN WILL NOT USE IT; RATHER, THAT BUSINESSES COULD NOT FUNCTION IF A WOMAN EMPLOYEE WAS GIVEN TIME OFF TO GIVE BIRTH TO A CHILD.

UNLIKE 20 YEARS AGO OR EVEN 10, MOST WOMEN ARE IN THE WORK FORCE AND THEY ARE THERE TO STAY. WOMEN OBVIOUSLY WILL CONTINUE TO GIVE BIRTH TO BABIES, AND MOST ARE NOW EXPECTED TO CONTRIBUTE AN INCOME TO THEIR FAMILIES AS WELL. THEY MUST RETURN TO WORK. GIVING BIRTH IS NOT SOMETHING ACCOMPLISHED DURING THE LUNCH HOUR OR IN THE EVENING AFTER WORK WITH THE EXPECTATION OF RETURNING TO WORK THE NEXT MORNING. MOST WOMEN NEED AT LEAST 6 WEEKS TO PHYSICALLY RECOVER. TIME OFF IS NECESSARY WITH OR WITHOUT THIS LAW. THE QUESTION IS, WILL THEY HAVE THEIR JOB TO COME BACK TO. WOMEN IN MINNESOTA NOW HAVE THAT GUARANTEE.

WHY NEEDED IN MINNESOTA

WOMEN ARE A SIGNIFICANT PART OF THE WORK FORCE. IN MINNESOTA, 63% OF WOMEN OVER THE AGE OF 16 ARE CURRENTLY EMPLOYED. 80% OF THOSE WOMEN ARE IN THEIR CHILD-BEARING YEARS. MANY FAMILIES TODAY DEPEND ON TWO INCOMES AND BOTH PARENTS MUST BE EMPLOYED. IT IS OBVIOUS, THEREFORE, THAT WOMEN WILL CONTINUE TO WORK.

I AM PROUD OF WHAT WE ACCOMPLISHED IN MINNESOTA. IT IS A STATEMENT THAT WE VALUE FAMILIES. WE ARE RECOGNIZING WHO THE NEW FAMILY IS. MOM WANTS HER JOB BACK AFTER THE BABY IS BORN AND DAD IS EQUALLY INVOLVED IN PARENTING.

WHAT WE PASSED IN MINNESOTA IS ONLY A STEP IN THE RIGHT DIRECTION. IT IS MY HOPE THAT A NATIONAL POLICY CAN BE ESTABLISHED.

Senator Dodd. I am going to introduce Betty Williams in a minute as well. She was going to be on a later panel but has to testify, I gather, herself, before another panel relating to family questions, so we will get to you in a second, Betty.

We will get to Senator John Plewa, first, and then we will come to you.

STATEMENT OF SENATOR JOHN PLEWA, WISCONSIN STATE SENATE

Senator Plewa. Mr. Chairman, I want to thank you for coming to Chicago with your committee to hear testimony on this very vital issue of importance to our nation and to American families.

To my knowledge, something like 15 states have already passed some form of parental or family leave legislation. The first in the nation was right here in the Midwest and I am pleased to be on this panel with Senator Peterson of Minnesota, the author of that bill.

In Wisconsin, we pride ourselves on our tradition of clean government, clean environment and progressive politics. In 1911, Wisconsin was the first state to implement a constitutionally sound Workers Compensation System. Wisconsin led the way again in 1932 with the nation's first Unemployment Compensation Law and our statute served as the model for practically every other state in the union. Wisconsin was in the forefront of a handful of states to enact early minimum wage, child labor, and anti-discrimination laws, and laws to protect union organizing. Just as we responded to the transition from an agricultural economy to one heavily reliant on manufacturing, today we must respond to the transition to a service economy where two incomes are often needed just to keep this generation of American families as prosperous as the last.

I'm happy to report that I am the author of a bill which, if enacted, would keep my state's progressive tradition alive. My bill, Senate Bill 235, is patterned after federal legislation, but it is more generous in certain ways. For example, my bill will allow employees to take, over a two-year period, up to 26 weeks of unpaid leave, as compared to a maximum of 18 weeks in the federal bills.

My bill covers time off to care for the employee's newborn child, or newly adopted or foster child, to care for a sick child, spouse or parent, or to recover from a personal disabling health condition.

The bill guarantees the employee the same or an equivalent job upon return to work. Medical insurance is also guaranteed to continue under the same conditions that existed before the leave was taken.

My bill recognizes business' legitimate concerns and it offers protections. For example, small businesses employing less than 10 people are exempt from the Act. This excludes 75 percent of the businesses in my state of Wisconsin, but only 13 percent of the work force.

The bill also contains the business protections contained in the federal bills, including requirements for physician certification of illnesses and adequate employer notification.

Because my bill is in some ways tougher than proposals at the federal level, I ask that you make sure that any national law allows the states to enact protections that are more generous than the federal bill.

Senator Dodd, I am proud to join you and the others on this panel in a common concern for the working men and women in this country and their families. Our legislation tells all Americans that it is good to work, it is good to have a family, and it is good to do both.

Thank you for giving me this opportunity.

Senator DODD. Thank you very much, Senator, for your testimony.

As I mentioned a moment ago, we are joined in this panel by Betty Williams, who is the Director of Social Policy for United Charities and founder and coconvener, I'm told, of the Illinois Campaign for Family Stability. She, also, as I understand, chairs the Oversight Committee of the Illinois Family Policy Task Force. This task force is holding the first of a series of hearings, looking at the range of problems families face here in this state. And I'm told she has a hearing at 12:30 on that particular question, so she is joining us a bit early. We appreciate you being here and your patience. Ms. Williams, we will be glad to receive your testimony.

STATEMENT OF BETTY WILLIAMS, DIRECTOR OF SOCIAL POLICY, UNITED CHARITIES OF CHICAGO

Ms. WILLIAMS. Thank you so much. I am indeed pleased to be here to give you some of my thoughts and ideas about parental leave.

The morning, I think, has been marvelous in terms of the testimony that we have had, the presentations, and certainly the remarks that I think deal with many of the technical and philosophical aspects of the leave issue.

I want to focus just a bit on some of the public policy underpinnings.

At some point, hopefully, not in the too distant future, citizens in the United States will acknowledge that American workers, whether bankers, butchers, bakers, bus drivers or ballet dancers, are also parents. And in that acknowledgement, they will also recognize the difficulty of juggling the roles of parent and employee. Presently, we hide behind platitudes, such as the value we place on the old-fashioned family with the father working and the mother at home, or the need for mothers to stay at home with their children, as the reasons we do not support parents in the workplace. After several decades of increasing numbers of married and single women joining the work force (62% of mothers now work), the platitudes are wearing pathetically thin. It is obviously in the national interest to hire a productive, competitive work force and it is in the interest of families to have an adequate income to sustain themselves.

A link that is not often made but which we must make more often is that children must be nurtured well by their parents and other caring people in order to become productive and competitive workers. So we come full circle and hopefully one day we will all realize how entwined family and work really are.

In the meantime, few would doubt the seriousness of issues facing today's families and today's economy. While many would not acknowledge as close a tie as I am suggesting, most will say that parents who are worried about their children cannot concentrate on their work. National statistics indicate that working men and women often cite worry about their child care arrangements and sick children as producing high levels of stress on the job. Some factories have noted that accidents and faulty production escalate from 3:00 to 5:00 p.m., those hours when children are sent home from school, many to empty homes to await their parents return from work. In addition, a recent study coordinated by the Louis Harris Associates and Program Planners revealed that 51% of teachers surveyed believed that a major cause of student difficulty is that children are left on their own after school. Over 40% of the parents surveyed said their children are indeed alone, many until 5:30 p.m. They also believe this contributes to their children's difficulties.

Just what are we to do? We obviously need both families and work. For most people there is no such thing as choosing to work. Parents must work and, in fact, with the exception of a few middle class mothers in two-parent families, we exact a terrible penalty from parents who do not work. For example, our public aid programs, with their demeaning requirements and grossly inadequate grants, are a glaring reminder of how we reward parents who stay at home with their children. Perhaps it is the contradiction in what we appear to value and what we are willing to support that creates the greatest problem. If our children are really so important to us, why do we refuse to provide for their care?

I believe that this discussion about parental leave is a very welcome topic and most certainly should occupy more of a prominent position on the national agenda. Parents, of course, need more than just time to provide the biological functions of birthing and allowing bodies to heal. They need to start their children off properly in a warm and safe environment. They need time to care for their sick children. We can no longer say that parents who want more time with children should quit their jobs and stay at home. Who are we kidding? Can we really afford to allow well-educated, highly skilled technical staff and maintenance staff to leave the work force. And by the Year 2000, with a declining population of workers, we won't have the luxury of saying, "Other workers are waiting in the wings." In addition, we do not seem to be willing to pay a family allowance or to provide an adequate income to provide decent food, clothing and shelter for parents to stay at home. No, we really will need to tackle the issue of parental leave and to acknowledge that workers are parents. In order to ensure productive workers and America's future, the public and private sectors, government and business, must come to a realization that it is economically in our best interest to support workers in their roles as parents. The alternative is to abandon our future.

Thank you.

Senator DODD. Excellent testimony, Ms. Williams. We thank you for it this morning.

I am also going to include in the record at this point a prepared statement of the Illinois State Senator Dawn Clark Netsch who wanted to be with us today but could not be here.

[The prepared statements of Ms. Williams and Senator Netsch follow:]

TESTIMONY OF

BETTY L. WILLIAMS
DIRECTOR OF SOCIAL POLICY
UNITED CHARITIES OF CHICAGO

BEFORE

SENATOR DODD'S SUBCOMMITTEE
ON CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM

SEPTEMBER 14, 1987
CHICAGO, ILLINOIS

Good morning, ladies and gentlemen:

Thank you for this opportunity to share my concerns about working parents and children. There are others here who will discuss the technical aspects of parental leave. My remarks will focus on some of the public policy underpinnings of the issue.

At some point, hopefully not in the too distant future, citizens of the United States will acknowledge that American workers, whether bankers, butchers, bakers, bus drivers or ballet dancers, are also parents. And in that acknowledgement, they will also recognize the difficulty of juggling the roles of parent and employee. Presently, we hide behind platitudes such as the value we place on the old fashioned family with the father working and mother at home, or the need for mothers to stay at home with their children, as the reasons we do not support parents in the work place. After several decades of increasing numbers of married and single women joining the workforce, (62% of mothers now work) the platitudes are wearing pathetically thin. It is obviously in the national interest to hire a productive,competitive workforce and it is in the interest of families to have an adequate income to sustain themselves.

A link that is not often made but which we must make more often, is that children must be nurtured well by their parents and other caring people in order to become productive and competitive workers. So we come full circle and hopefully one day we will all realize how entwined family and work really are.

In the meantime, few would doubt the seriousness of issues facing today's families and today's economy. While many would not acknowledge as close a tie as I am suggesting, most will say that parents who are worried about their children cannot concentrate on their work. National statistics indicate that working men and women often cite worry about their child care arrangements and sick children, as producing high levels of stress on the job. Some factories have noted that accidents and faulty production escalate from 3 to 5 p.m. - those hours when children are sent home from school, many to empty homes to await their parents return from work. In addition, a recent study coordinated by Louis Harris Associates Inc. and Program Planners Inc. revealed that 51% of teachers surveyed believed that a major cause of student difficulty is that children are left on their own after school. Over 40% of the parents surveyed said their children are indeed alone, many until 5:30 p.m. They also believe this contributes to their children's difficulties.

Just what are we to do? We obviously need both families and work. For most people, there is no such thing as choosing to work. Parents must work and in fact, with the exception of a few middle class mothers in two parent families, we exact a terrible penalty from parents who do not work. For example, our public aid programs with their demeaning requirements and grossly inadequate grants, are a glaring reminder of how we reward parents who stay at home with their children. Perhaps it is the contradiction in what we appear to value and what we are willing to support that creates the greatest problem. If our children are really so important to us, why do we refuse to provide for their care?

During the past few years, leaders at local, state and national levels have kept the debate about families and work in the headlines. There have been some small legislative victories in the form of increased funding for daycare and after school programs.We need much more in the way of recognition of parental responsibility and benefits that support families.

Recently there has been a renewal of pronouncements blaming the women's liberation movement for a "decline in family life." In truth, some things that are very positive for family life have come from the movement. For example, while young families are more likely to have both parents working, they are also more likely to share child rearing responsibilities. Everyone benefits from this change, especially children. Unfortunately, the workplace has not moved swiftly to accommodate this positive change. Sadly we go on lamenting the loss of a "traditional family" with father working and mother providing child care. Although we posture this "traditional family" as the "average family" of the past, most poor mothers have worked throughtout the years. Those lamenting such a loss would accomplish a real service if they lobbied for public policy to support a tax structure, employee practices and human service programs geared to assist both parents in the complex job of preparing the next generation. To say that it is the parents' job only is to negate the reason for coming together as a civilization. Any society that fails to sustain its next generation is on a suicide course.

The subject of parental leave is a welcome topic as we evaluate families and public policy. The quality of family life and the importance of the role of parents need to occupy more of the national agenda. Parents need more than just time to provide the biological functions of birthing and allowing bodies to heal. They need to start their children off properly in a warm and safe environment. They need time to care for sick children. We can no longer say that parents who want more time with children should quit their jobs and stay at home. Who are we kidding? Can we really afford to allow well educated, highly skilled technical staff and maintenance staff to leave the workforce. And by the year 2000, with a declining population of workers, we won't have the luxury of saying other workers are waiting in the wings. In addition we do not seem to be willing to pay a family allowance or to provide an income adequate enough to provide decent food, clothing and shelter for parents to stay at home. No, we will need to tackle the issue of parental leave and to acknowledge that workers are parents. In order to insure productive workers and America's future, the public and private sectors, government and business must come to a realization that it is economically in our best interest to support workers in their roles as parents. The alternative is to abandon our future.

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Written Testimony for Senate Bill 249,
The Parental & Medical Leave Act of 1987

Submitted by: Dawn Clark Netsch
Illinois State Senator
Professor of Law,
Northwestern University

September 14, 1987

Senator Dodd and members of the Subcommittee on Children, Family, Drugs and Alcoholism:

My name is Dawn Clark Netsch. I am a member of the Illinois Senate and a professor of law at Northwestern University.

Thank you for presenting this opportunity for me and for others to testify in favor of Senate Bill 249, the Parental and Temporary Medical Leave Act of 1987. We are particularly pleased that the subcommittee has chosen to hear testimony in Illinois where a similar bill, the Illinois Family and Medical Leave Act, which I am sponsoring on behalf of a broad-based coalition, is currently pending in the Illinois General Assembly. We know that the concept has generated a great deal of interest - and excitement - in this state, and we are anxious to support your efforts in any way that we can. (I am sorry that because of my teaching commitments, my testimony must be given in written form.)

Senate 249 is clearly an idea whose time has come. Thirty years ago, the idea of "putting a parent back in the home" to care for a child would not have been considered a break through. Rather, it was the norm. In two out of three families, the fathers went to work and the mothers worked at home, caring for the children. Today, as I am sure you have noticed, the Ozzie and Harriets of America are a vanishing breed. Dramatic changes in the composition of the work force have placed a tremendous strain on families. In the majority of families, both parents work outside the home. Half of the mothers with children under the age of three are working.

Unfortunately, the American workplace has not changed to accommodate these realities. Most employers simply have not adapted their leave policies and benefits to their workers' needs. The Parental and Temporary Medical Leave Act will enable workers responsibly to fulfill both employment and family obligations, and it will, I believe help employers to realize a more productive and stable work force.

The purpose of S.249 is to allow employees to take unpaid, job protected leave for either certified medical reasons, or for the birth or adoption of a child or to care for a seriously ill child without the risk of termination or loss of certain important benefits. In the case of parental leave, an employee is entitled up to 18 weeks of leave during any 24 month period. The temporary medical leave provision allows an employee up to 26 weeks of leave during any 12 month period for a medically certified disability. Under either provision, an employee may elect to substitute accrued vacation, personal or sick leave for any part of the leave period.

The bill assures employees of two vital benefits during their leave. The first is that the employee is guaranteed the same or a comparable position upon his/her return. The second vital benefit allows the employee to continue any pre-existing health insurance during the leave and to maintain accrued benefits with no loss of seniority.

There can be no serious question that the bill promotes economic, as well as emotional security and stability for millions of families who will not be forced to choose between job and family.

What, then, are the objections to it? Let me address briefly a few.

Unquestionably, the most serious concern raised about the effect of the bill is its cost to employers, particularly small businesses. S. 249 addresses the small business issue by excluding from its coverage employers of fewer than 15 employees. That means that it would not apply to an estimated 80% of firms which employ 20-25% of all workers.

With respect to the cost to employers who are covered, perhaps the most that can be said is that there will be some cost, at least initially, but that it will not approach to $2.6 billion estimated by the U.S. Chamber of Commerce. You are of course familiar with the preliminary report prepared at your request by the General Accounting Office, which concluded that "the Chamber's cost estimate is high because it used a variety of unrealistic assumptions about the number of people who would use unpaid leave and the length of their unpaid absences, the number of leave users who would be temporarily replaced, and the cost of having these replacements." Equally important, perhaps even more so was the GAO's observation that "the Chamber made no offsetting adjustments for some likely benefits and related savings, such as improved employee morale, reduced turnover, and a more experienced, loyal, and committed work force." Admittedly, not all of these and related savings (in recruitment, training, etc.) can be measured; but the point is that they are there; they are part of the equation, and they must be accorded appropriate weight in evaluating the cost estimates.

There are other arguments against Parental Leave, which I believe are based on misconceptions about the American work scene

* Every new mother is already guaranteed six weeks of maternity leave. The reality is that currently only 40% of working women are entitled to a six-week job protected leave at the time of childbirth.

* that if this bill passes, employers will hire fewer women of childbearing age. This does not square with reality. For one, this type of discrimination is illegal under federal and many state laws. Moreover, the bill provides equal leave for both men and women. But beyond this, a fact of today's work force is that women are an essential part of it, in numbers as well as skills. Employers cannot afford not to hire them.

* that the leave taking rights provided by the bill will be greatly abused. There is widespread fear that employees will take leave indiscriminately. The reality is that with rare exceptions, employees can not afford to take unpaid leave and will do so only when it is absolutely necessary. It seems to me that the GAO's experience with its own parental leave policy confirms that. The state of Illinois has had a similar experience with its parental leave policy.

As a nation which has prided itself in the past on enlightened employment policies, we are indeed lagging on this one. Some 100 other countries, including all the industrialized nations, have some form of family and medical leave policy and in most of these countries it is paid leave.

S. 249 is pro-worker, pro-business and pro-family. We have heard much rhetoric in recent years about the importance of strengthening the family. This bill turns rhetoric into action. It presents on of the few opportunities, by affirmative legislative action, for us to assist the modern family to function, intact, as a unit.

Senator Dodd. I have just a few questions for you, if I can. Again, I thank all of you for coming down here. Some of you crossed state lines to be here as well.

The importance, Ms. Montes, of having a minimum federal statute—you heard Senator Plewa talk about it—my legislation would not preclude states from providing additional benefits or more extended time or whatever, at all. I know the importance of having state laws. We see now where some 15 states have moved in this area and I expect more will. I would argue, with all due respect, that we may end up with 50 different statutes on this area which, as we become more of a mobile society, may make it harder to some degree. So, I think it is all the more important to have a federal minimum statute so, at least, there is some common denominator. How important is that to you?

Ms. Montes. Oh, I think it is extremely important. I think it is extremely important in terms of having a common denominator for which the other states will have a minimum standard that will be applicable to all persons.

As you have stated before, there are 15 states and I imagine they all have their different requirements in there and the same thing, I guess, with cities. They would have different requirements. But to have some kind of cohesive, continuous stated policy at the national level would lay the groundwork for all the other states and cities.

Senator Dodd. I agree with you on that as well.

Let me just ask you, and ask Ms. Williams as well: One of the arguments that has been raised against this, and you have heard Senator Peterson talk about it as well, is that, "Well, it is not going to make us competitive. This is not going to get on the federal level, anyway. I presume you have it on the state level. We will not be competitive with other states. This will be just one additional burden on business. It is going to make it just that much harder for us to be competitive."

To what extent have you analyzed that argument with respect to the issues of absenteeism, productivity and the like, in terms of the local level? What are your conclusions regarding that?

Ms. Montes. I would assume that if you had a comprehensive policy, that would give the workers the kind of security that they so desperately need and this, in turn, would help to increase their productivity. I don't see the connection in terms of absenteeism. We have heard that, that the absenteeism would increase, and I don't agree with that. I think that along with each one of the policies the fact that in most of the instances in order for the persons to return to work, they have to bring back a medical statement would dictate that—they just couldn't take off any time that they wanted without having some kind of confirmation in terms of a leave.

Senator Dodd. Well, that's our conclusion as well, but we are hopeful to get more data on that as well.

Senator Peterson, one of the complaints that you will hear is that, "Well, women will take this and they'll take the 18 weeks."

What is the time in your——

Senator Peterson. Six weeks.

Senator DODD. "Well, they will take the six weeks, the eighteen weeks, and then they won't come back to work, any-way," or "Businesses won't hire women." "Well, they'll look and they'll say, 'Look, you just got married.' " "I presume, no matter what she says, she is going to want to have a family. And we've got these two people that we want to hire. We've got this guy who is single," or "this woman who is single," or "this woman who is married" or "an older person who has maybe already had their family. No matter whether or not we like this person and we think they are actually more competent for the job, we're going to reject that child-bearing age woman as an employee because we are going to be faced with this problem."

How do you address those questions when they are raised?

Senator PETERSON. Well, we certainly heard that as a negative for the legislation.

A couple of things: One is by having the fathers included, I think the likelihood of someone discriminating against the woman is reduced because the father is now also entitled and I happen to believe that in many cases, and it will grow over the years, that the fathers will take advantage of this opportunity.

The second thing is that, based on the legislative study we did, we were not as shocked to find how many companies did not provide it as we were how many companies were providing. The assumption is always that it is only the big companies that can do this, and in Minnesota we have many "Fortune 500" companies and so we always look to the 3-M's and the Honeywell's and the Control Data's and say, "Well, they do it," but that's different. We found that 25 percent of the companies with less than 19 employees were providing some kind of nondiscriminatory parental-maternity leave policies. So those companies were finding a way to do it, and they were obviously not discriminating. They had a policy. I assume it came about because they found that they had good employees who became pregnant and they found it a good way to treat their employees and to keep good employees and get them to come back. From indications that we had from this study and from the interviews that we had, women are in the work force to stay. If the bank has a woman employee and she has a child, the argument is: "Well, she is not going to come back after the six weeks. How do we know we are going to get her back?" She has to go back to work. She doesn't have a choice.

So I think we can look towards our other industrialized friends across the ocean and we can see they all are providing this and they are not having—from one study I read from West Germany, there are no problems there in the fact that women have this time off. I think we can look to our larger companies that have been providing this kind of benefit to their employees, and we don't see them discriminating, based on the fact that they have this policy and, therefore, they are not going to hire women.

Senator DODD. Another thing that might be interesting thing to look at, and I don't know: Has Minnesota had maternity leave legislation?

Senator PETERSON. No, we did not.

Senator DODD. Interestingly, the states that have-California, Colorado, Montana, and there are several more that don't come to mind immediately–have had maternity leave on the books for some time. One of the arguments in those states against maternity leave legislation, that it would be discriminatory against women. Yet in fact, since that legislation passed in those states, when you look at the data pretty carefully, you see that the employment of women has continued to increase. In fact, women's employment in those states has moved forward aggressively, keeping up with national levels, and certainly at pace, if not ahead of those states that have not had maternity leave. So the notion that the employer would discriminate against the woman is not born out by the data and facts in states where maternity leave has been on the books. Now, that's a bit different than parental leave but, nonetheless, I think it serves to be instructive, anyway, of what happens to the employment opportunities for women in states where you do have mandatory statutes that provide leave.

Secondly, there is a study by a woman, and her name escapes me at this time, on the question of pay equity or equal pay for equal work and the European experience. She argues that despite the efforts of the women's movement in this country, the disparity between pay for men and women is far wider in the United States than in Europe. The gap is much smaller, generally, in the European community than it has been here. Sylvia Hewlett is the author. Thank you, Marsha. Hewlett's book indicates that the parental leave policies in those countries have given women an edge or, at least, have closed that gap between men's wages and the salaries of women. So, quite to the contrary to being a negative for women in the work force, it seems quite the opposite. It has been a plus.

I congratulate you on what you did. I think it is terrific for Minnesota. In Connecticut, it is our public employees who are protected by parental leave now. That bill went through overwhelmingly. There were very dissenting votes in our State Senate on it and we have the second largest concentration of "Fortune 500" corporation outside of lower Manhattan and the highest per capita earnings of any state in the country. We also have two of the ten poorest cities in America, Hartford and New Haven, amidst all that affluence, I might point out to you. But, nonetheless we found the business community to be very, very helpful and supportive. Many of them are doing it. Southern New England Telephone Company, which employs 14,000 people, has had parental leave for men and women, for 10 years. IBM has had a child care project, industry-wide, for years. In fact, they kind of snicker. In some ways they find that they are far more attractive in terms of hiring, and their productivity levels are high. They almost wish, from a purely business standpoint, that other businesses wouldn't adopt these things because they think it has been a tremendous advantage to them. They are somewhat mystified that others have not caught on to the importance of it just from a purely economic standpoint.

John, you are in the midst of going through this battle and I'm sure probably talking to Senator Peterson about her experience up there, so you can be successful as well.

How are things going? What are the comments you are getting from the business community in Wisconsin?

Senator **Plewa**. Well, Senator, our business community in Wisconsin is divided. There is another bill that was introduced in the

Wisconsin Senate that is less-inclusive than my own and would only add six weeks of unpaid leave, rather than mine which calls for twenty-six weeks. In fact, the press thinks I am running interference for Senator Risser who is our Senate President and who introduced the other bill, but this is not the case.

However, the business community is divided in our state. To my surprise, three weeks ago when we had a public hearing, the Wisconsin Manufacturers Association came out in support of Senator Risser's bill which is the six-week bill. There are some businesses that support mine, but they are very far and few and in between.

I do believe that when this bill will be debated in front of the Senate, hopefully in the upcoming October floor period, we will have some better knowledge of where business is.

Senator DODD. You went further than, in fact, the House bill, and the House bill goes a bit further than the Senate bill, in that it gets into elderly parent and spousal treatment. I would tell you, while I don't disagree with those issues, I have found that to the extent that you keep the focus on children–obviously, you are talking about children and parents–it is easier to build a base of support. Obviously, there is a strong argument that you have made for paid leave and these things. And, again, many countries are doing that. You could argue for a lot of things. But it is difficult enough to get unpaid leave. I have thirteen or fourteen co-sponsors out of a hundred senators on this. We have faced a lot of misinformation. I mentioned earlier in my opening statement that figure on $16 billion. The Chamber put out those numbers. That is what went out to businesses across the country. Two weeks later, they came back and said, "We're sorry. It was only around $2 billion." They didn't put out a piece of correspondence that apologized to the recipients of their newsletter, so I get faced with mail, which still comes in, from businesses all over, saying, "Your bill is going to cost us $16 billion." So you face that problem as well. There is a lot of misinformation out there about what the bill does. But, anyway, you wish you had more support.

Have you found bipartisan support? Do you have a Republican–are you a Republican or a Democrat?

Senator PLEWA. No, I'm a Democrat. And the interesting thing is that I have a majority of the State Senate which is 17 senators as co-authors. Only one is Republican co-author, out of 14 members. In the House, I believe we have 35 co-authors of the bill. Only two or three are Republicans, out of a 99-member House. So, by far, it seems to be a Democratic type of proposal. In fact, the leadership in both houses is made up of Democrats and they are very prominently on this bill. I wish we could get more Republican support.

Senator DODD. I'll have Arlen Specter. He is my Republican co-sponsor of this legislation. I might point out his wife is a member of the City Council in Philadelphia and authored the parental leave bill for the City of Philadelphia and, also, an extremely successful business-woman in her own right. So I will have Arlen give a few extra calls.

Now, Betty, your testimony was excellent. Good testimony tends to anticipate the questions. I mentioned earlier to you some—rather to Ms. Montes the question of business reaction and so forth. Could you comment on that as well?

Ms. **Williams**. I would hope that we would have far more Republicans supporting this kind of leave because I think that economically it makes a lot of sense. I think that is the point I was trying to make, that most certainly both the public and the private sector should see the importance of having productive workers who can compete in an international economy. I think parents who are worried about their children, as I say, do not make good workers. We need to understand that it is not that parents are necessarily choosing to work. I think there are people who would like to stay at home who cannot at this time. And, of course, we do need workers. There is no way we can operate without productive workers. Business should see this as an investment. And, of course, I always believed that we should see our children as our greatest resource. If we do not invest in our children now, then they will not be able to carry on with civilization.

Senator **Dodd**. You have businesses, obviously, in the area that have adopted some of these policies.

Ms. **Williams**. Yes, we do, and those businesses report excellent results. Again, with the matter of absenteeism and who is worried about children and how parents are reacting, I think certainly even for good morale of staff, it is absolutely necessary, and I think the businesses who are providing these services can offer some excellent testimony about how well it works for them.

Senator **Dodd**. I agree with you, but I find it so intriguing. It is the only situation I can think of where when I bring witnesses, who are businesses that have done this for years, that their credibility on the issue seems to be less than the business that comes forward and says, "This is what I think it is going to be like." I can't think of another fact situation where you have two witnesses, one that is doing something or has been through an experience and is reporting a result and someone who has never been through the experience but anticipating what the experience will be like. Yet one is given more weight than the other and ironically that is the one without the experience.

Ms. **Williams**. There is only one other issue where I think that happened, and that's Public Aid. I think, also, many people tend to go with the side that gives us all the bad statistics on that rather than the factual information that we already have.

Senator **Dodd**. That's a good point.

Ms. **Williams**. It seems that people have a mind-set that anticipates the difficulty instead of looking at the factual material. I think we do have a job ahead of us in helping people to understand what we know to be the case.

Senator **Dodd**. Yes. I thank you all again for being here. It has been tremendously helpful.

Again I congratulate you, Senator Peterson, on your success up in Minnesota. I would be interested, and I presume you are going to do this, to follow on and see how things are working with it. That will be very helpful, now that you have a program in place and are looking at the reaction.

Frankly, I'm the type of legislator that, if things happen without legislation, let them happen. But this is one issue where there isn't any movement at all or very little. We have also found that in companies that have had parental leave, men have not been taking as much advantage, at least they haven't historically. Southern New England Telephone Company, which I mentioned to you before me, had only a handful men that had taken advantage of the parental leave policy. I suspect that may be changing as more time goes on. You showed us this ad, the Swedish ad. There are more and more men that I know, peers of mine, that spend far more time with their children than their fathers ever did and are far more involved in the rearing of children than their fathers ever were. And, while there still may be a certain stigma associated with the idea that a man would go in and ask for time off to help raise their newborn infant—the assumption being that you are not quite macho enough if you don't care more about the job than your child—this feeling is diminishing significantly.

But I will be interested to track that with you to see what happens in Minnesota as to how many men take advantage of the parental leave policy that you have in place.

Senator PETERSON. We assumed that one thing that may happen, because we were able to pass six weeks only, and one of the reasons that we were even able to hold that six weeks was by reiterating over and over again that there simply is no day care available for an infant under six weeks. Provided the mother is physically able to go back to work at the end of six weeks, the father then can stay home for another six weeks. Then the child is twelve weeks old before you find day care and even at that point, it is difficult finding day care for a tiny child. That was about the only thing we were able to focus in on with children in Minnesota, that is, the availability of day care, because we were never able to focus the attention on the child or the need for the child and that had been our original intent; rather we had, on the one hand, business telling us how much this was going to cost them and that they would never be able to retain employees and, on the other hand, we had the pro-family types telling us that women belong at home, anyway, and so, if you provide this, it will encourage them to go out and work.

Senator DODD. I find, too, that one of the problems I have is the confusion on this issue with child care issues. I will be introducing either later this month or the first part of next month comprehensive child care legislation. We will begin extensive hearings on that. But this is a separate fact-situation. I mean, if you have a sick "kid", you are not going to put it in a day care center. I can't seem to get that notion through to some people. There are very few child care facilities, none that I know of, that will take a newborn infant. And, obviously, the adoption issue isn't a question of putting the child in a child care situation. Adoption agencies want to know whether or not you are going to have that relationship develop between those new adoptive parents and that child. So when people start talking about child care as the alternative to this, they just absolutely are talking about apples and oranges. It is a totally different fact-situation. The other one is an important issue as well. And you are right that the questions of the availability, affordability, and quality of child care are growing by leaps and bounds across this country. But it is like a puzzle. These are separate pieces to this and you have to deal with them on that basis; otherwise, I think it is too much for people to concentrate on. Anyway, we could talk all day here.

I appreciate your comments and your testimony this morning.

Our next panel, Panel III, has been very patient to wait this long. I will invite them. They include business opponents and supporters of this legislation, so I may just sit back and allow this crowd to engage in a good debate with themselves.

From the Illinois Chamber of Commerce, Cynthia Grantz. I invite Cynthia to come up. Cynthia is representing both the Illinois State Chamber of Commerce and the U.S. Chamber of Commerce.

Robert O'Keefe is the Vice-President of Industrial Relations at Fel Pro, Inc., an automotive manufacturing business that employs almost 2,000 employees. In addition to telling us about Fel Pro's family policies, Mr. O'Keefe will testify before us today as the father of six children and the grandfather of two. And as one of six children, Mr. O'Keefe, I am very curious to see what you did differently than my parents did, raising this "Motley crew" at our house.

Ruby Cartwright is from the National Federation of Independent Businesses, Benton Harbor, Michigan. In addition to representing the National Federation, Ruby is the Vice-President and corporate manager of the Southern Michigan Coal Storage Company.

Darice Wright, Ariel Capital Management, Inc., Chicago. Darice is the Director of Marketing and Client Services for Ariel, an eight-person business, managing stock portfolios for corporations, states, and cities.

And Louis Dehmlow—how did I do?

Mr. DEHMLOW. Fine. It is just like the "h" in Johnson.

Senator DODD. All right. I wasn't sure. I hesitated there a little. I apologize, Lou.

Louis is with the National Association of Wholesaler-Distributors and represents the National Association of Wholesaler-Distributors. Mr. Dehmlow is the President of the Great Lakes Terminal and Transport Company of Chicago.

And, lastly, we have Peggy Leonard, with the National Association of Women Businesses. Peggy is the President elect of the National Association of Women Business Owners. Congratulations! Peggy also owns a consulting business based out of Geneva, Illinois.

So we have a broad spectrum of people here this morning. Again, I thank you all for patiently sitting through this morning. I hope you found some of it interesting and worthwhile. For those of you who arrived late, whatever prepared statement you have, I guarantee it will be included as a permanent part of the record. If you care to paraphrase or synopsize your comments, fine. With this many people, we will try to move along as rapidly as possible. If you want to modify any statements, based on things you have heard this morning, evidence that has been offered, change it.

We will begin with Cynthia Grantz, and we will proceed in the order that I have introduced you. We welcome you here this morning. Thank you for waiting. We are delighted to receive your testimony.

STATEMENT OF CYNTHIA GRANTZ, ILLINOIS CHAMBER OF COMMERCE, ROCKFORD, IL

Ms. GRANTZ. Thank you, Senator Dodd.

Since you have already introduced me a little bit, I will only add that I was a delegate to last year's White House Conference on Small Business and have served three years on the National Advisory Council of the U.S. Small Business Administration.

Rockford Coatings is a family business, founded in 1906. The company makes industrial paints and coatings for manufacturers of primarily metal products, such as aluminum extrusions, lawn and garden equipment, and shelving, furniture and fixtures. We are a job shop in that each product is formulated to customer specifications and manufactured per customer order. The company sells nationally and operates factories in Rockford and St. Louis. Paint technology has become much more sophisticated in recent years, not only because of the demand for improved quality and performance but, also, because of EPA regulations for solvent emissions in the workplace. Our major product line is the high performance, hi-solids baking enamel within the larger context of EPA-compliant coatings.

As a small company, customer service is our particular strength, for we are able to both respond quickly to customer line emergencies and meet the short lead-times required by just-in-time deliveries.

We employ a total of 87 people company-wide, of whom eight, excluding myself, are women. The paint industry has not historically attracted women employees outside of administration and, although we are now seeing women in the labs and quality control, it is unlikely that they will be interested in production positions in any significant numbers. In this regard, paint manufacturing is apt to continue to be a male-dominated industry.

In the 81-year history of the company, we have never had a pregnant employee and, for this reason, no formal policies regarding motherhood have been developed. Individual personnel situations have been handled on a case-by-case basis. The one example of Rockford Coatings, where an employee requested adjustment to the work schedule for reasons other than health, is that of an accountant who adopted a baby five years ago. In that instance, she, her supervisor and the president discussed her wishes and the responsibilities of her position and determined that a half-day work week would meet both the company's needs and her own.

As concerns employee leave-time for meeting personal or family responsibilities, the company, again, has no policy. Anyone is entitled to take reasonable leaves of absence for these purposes and such flexibility has not been abused.

With this background in mind of the business of Rockford Coatings, the composition of its work force and its approach to the individual employee's concerns, I should like to present some arguments against passage of S.249.

First, there is no interest at this time among our employees for an unpaid parental leave benefit. With the exception of the accountant described before, I know of no instance where an employee, either hourly or salaried, has desired unpaid leave beyond the time necessary to meet normal family necessity. From the point of view of our union employees, recent contract negotiations did not include any reference to "parental leave", either paid or unpaid, but rather concentrated on wage increases, additional longevity benefits and matters dealing with the workplace.

As regards potential new employees, to date we have not found parental leaves, either paid or unpaid, to have been of even remote significance as a condition or benefit of employment.

Thus, to the extent that S.249 provides for unpaid parental leaves and that such leaves may be of major importance to many, the employees at Rockford Coatings do not appear to desire them.

Secondly, I would like to address the provision of S.249 that concerns the protection of the seriously ill employee. Rockford Coatings provides both short-and long-term disability benefits which compensate those employees who qualify. I note, however, that the guidelines in S.249 for defining "serious illness" are much broader than those in our disability plans. If it is the intention of S.249 to expand "serious illness" beyond the definitions within the standard disability plans, then our coverage—and perhaps that of many companies—does not entirely satisfy the protection envisioned by the bill. The employees at Rockford Coatings value this benefit and have not indicated that it does not adequately meet their protection.

The matter of reinstatement to the former position is always honored, subject to the returning employee's health, as judged by his, or her, physician. Fortunately, we have had few employees who have been disabled, and it has never happened to anyone in a management or supervisory position. I believe that most companies would have difficulty holding such positions open for several months and that most employees would not expect it. Since our company has relatively few management or supervisory positions at all and to the extent that each department is unique, the provision that requires reinstatement to a position of equal status would present a problem in terms of definition alone.

In summary, I think that Rockford Coatings succeeds in meeting the intent of S.249 as it pertains to the protection of the seriously ill employee. Legislation would be redundant.

Thus far, I have attempted to present arguments against passage of S.249 that demonstrate in the case of one company, unpaid parental leaves are not desired by the employees, and, protection of the seriously ill employee is already provided.

Vis-a-vis Points 3 and 4 in the section of the bill entitled "Findings", I don't see any way in which the employment policies, or lack thereof, at Rockford Coatings can be thought either to "force many individuals to choose between job security and parenting" or to fail to "provide adequate" job security for employees who have serious health conditions that prevent them from working for temporary periods." In many instances, our commitment to job security at Rockford Coatings has gone far beyond that contained in the bill. Our company is not unique in this way, and I have read of many employers that provide extremely generous benefits to their people. I do not in any way question the need to recognize and respond to the concerns of employees, but I strongly question the need for any level of government to impose, whether through mandated benefit or minimum standard, the requirements set forth in S.249.

And should S.249 be passed, I would ask you to consider the impact that the exercise of these leaves would have on specialty manufacturers, such as we. Trained paint chemists, for example, are difficult to find for even full-time positions, and they do not exist in the temporary market. In addition, those of us in the high-hazard industries could not run the risk of random streams of temporary help on the shop floor. The paint salesman, chemist, purchasing agent, expeditor, batch maker, mill operator, processor, shader, quality controller, filler, shipper, and tech service rep cannot do their jobs independently of each other, or from their living rooms. In short, there is only one employee of the 87 people at Rockford Coatings who can be absent from the workplace and it is I.

Many of us are anxious about the proposed legislation now before Congress, all from our own perspective. Those of us in chemical-related industries are particularly vulnerable and subject to liability, some of which is not merited within reasonable concepts of justice, and for which the price tags are harsh. Our company has voluntarily contributed heavily toward cleaning up the Superfund site, which we did not create, and in exchange for this, we are assured that our liability will never end. Insurance does not exist for these burdens, and for those companies too small to self-insure, the risk to the owners are grave.

So, considering the possible impact on Rockford Coatings should S.249 be passed, I ask the question: How do we protect ourselves and our employees, if we can't "get our paint out the door"?

Small manufacturing is not well understood in the wider community, for our businesses are low-profile and our products tend not to make it to the body of the car but rather lurk under the hood. I would love to see a TV series based on "Miami Vice", called "Rockford Rust" where Sonny Crockett and Rico Tubbs sweep through the industrial parks of the "Rust Belt", routing out corrosion and rescuing its victims with 55-gallon drums of high performance, EPA-compliant hisolids polyester paint. If this sounds impassioned, I agree. But, as a company which in its 81-year history has never had a plant closing or a layoff, has given wage and salary increases every year since 1958, has fully funded its pension plans and gives to its country but asks little in return, we think we're a deal not to be missed.

In conclusion, I would only add that as taxpayers we should bear in mind that S.249 applies to public servants as well, and school district employees among them.

The impact of parental and medical leave legislation will be felt in many ways. So as we set the agenda for our country, we must set it with the utmost care.

I would like to thank the Senator for going into the field to seek testimonies from parties interested in this bill and for affording me the time to speak.

Senator DODD. Now I know why you wanted that screen test. You want to be a "Rockford Rust".

Thank you very much for your testimony, Ms. Grantz.

[The prepared statement of Ms. Grantz follows:]

Chamber Action Network
CENTRAL REGION
U.S. Chamber Federation

STATEMENT
TO THE
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM
OF THE
SENATE COMMITTEE ON
LABOR AND HUMAN RESOURCES

ON
S. 249
(THE PARENTAL AND MEDICAL LEAVE ACT OF 1987)

BY
CYNTHIA GRANTZ
PRESIDENT
ROCKFORD COATINGS CORPORATION
ROCKFORD, ILLINOIS

A MEMBER OF THE
ILLINOIS STATE CHAMBER OF COMMERCE
AND THE
U.S. CHAMBER OF COMMERCE

SEPTEMBER 14, 1987
IN CHICAGO, ILLINOIS

Senator Dodd and members of the Subcommittee, I am Cynthia Grantz, president and chairman of the board of Rockford Coatings Corporation, a specialty paint manufacturer in Rockford, Illinois.

I was a delegate to last year's White House Conference on Small Business and have served three years on the National Advisory Council of the U. S. Small Business Administration.

As the owner of a small manufacturing firm, and as a member of both the Illinois State Chamber and the U.S. Chamber of Commerce, I am here today to testify against S. 249 -- the Parental and Medical Leave Act of 1987.

I would like to express my sincere appreciation to Senator Dodd and the members of the Committee for going into the field to seek testimony from parties interested in S. 249 and for permitting me to be among those who speak to this proposed bill. It is my objective to give as fair and informative a presentation as I am able.

Rockford Coatings is a family business that was founded by my late husband's grandfather in 1906. The company makes metal products, such as aluminum extrusions, lawn and garden equipment, shelving, furniture and fixtures. We are a job shop in that each product is formulated to customer specifications and manufactured per customer order. The company sells nationally and operates factories in Rockford, Illinois and St. Louis, Missouri.

PAINT TECHNOLOGY HAS BECOME MUCH MORE SOPHISTICATED IN RECENT YEARS, NOT ONLY BECAUSE OF THE DEMAND FOR IMPROVED QUALITY AND PERFORMANCE, BUT ALSO BECAUSE OF EPA REGULATIONS FOR SOLVENT EMISSIONS IN THE WORKPLACE. THUS, SMALL PAINT MANUFACTURERS TEND TO SPECIALIZE IN CERTAIN MARKETS; OUR MAJOR PRODUCT LINE IS THE HIGH PERFORMANCE HI-SOLIDS BAKING ENAMEL WITHIN THE LARGER CONTEXT OF EPA-COMPLIANT COATINGS.

THE EMPHASIS ON CUSTOMER SERVICE HAS BEEN, I AM SURE, A POSITIVE INFLUENCE IN THE REDUCTION OF COSTS IN THE MANUFACTURING SECTOR OF THE AMERICAN ECONOMY. AS A SMALL COMPANY, CUSTOMER SERVICE IS OUR PARTICULAR STRENGTH, FOR WE ARE ABLE TO BOTH RESPOND QUICKLY TO CUSTOMER LINE EMERGENCIES AND MEET THE SHORT LEAD-TIMES REQUIRED BY JUST-IN-TIME DELIVERIES.

WE EMPLOY A TOTAL OF 87 PEOPLE COMPANY-WIDE, OF WHOM EIGHT, EXCLUDING MYSELF, ARE WOMEN. THE PAINT INDUSTRY HAS NOT HISTORICALLY ATTRACTED WOMEN EMPLOYEES OUTSIDE OF ADMINISTRATION, AND ALTHOUGH WE NOW HAVE WOMEN IN THE LABS AND QUALITY CONTROL, IT IS UNLIKELY THAT THEY WILL BE INTERESTED IN PRODUCTION POSITIONS IN ANY SIGNIFICANT NUMBERS. IN THIS REGARD, PAINT MANUFACTURING IS APT TO CONTINUE TO BE A MALE-DOMINATED INDUSTRY.

In the 81-year history of the company we have never had a pregnant employee, and for this reason no formal policies regarding motherhood have been developed. In fact, the company has very few formal policies beyond those basic to all businesses and those necessary in our industry. Individual personnel situations have been handled on a case-by-case basis, and in situations where the company has had no previous experience, these cases come to the president. The one example at Rockford Coatings where an employee requested adjustment to the work schedule for reasons other than his own health is that of our accountant who adopted a baby five years ago. In this instance, she, her supervisor and the president discussed her wishes and the responsibilities of her position and determined that a half-day work week would meet both the company's needs and her own.

As concerns employee leave-time for meeting personal or family responsibilities, the company, again, has no policy. Anyone is entitled to take reasonable leaves of absence for these purposes and is expected to notify respective supervisors in advance, whenever possible. Perhaps, because interdependence is more acutely obvious to employees in small companies, such flexibility has not been abused.

With this brief background in mind of the business of Rockford Coatings, the composition of its workforce and its approach to the employee's individual concerns, I should like to present some arguments against passage of S. 249.

FIRST, THERE IS NO INTEREST AT THIS TIME AMONG OUR EMPLOYEES FOR AN UNPAID PARENTAL LEAVE BENEFIT. WITH THE EXCEPTION OF THE ACCOUNTANT DESCRIBED BEFORE, I KNOW OF NO INSTANCE WHERE AN EMPLOYEE, EITHER HOURLY OR SALARIED, HAS DESIRED UNPAID LEAVE BEYOND THE TIME NECESSARY TO MEET NORMAL FAMILY NECESSITY. FROM THE POINT OF VIEW OF OUR UNION EMPLOYEES, RECENT CONTRACT NEGOTIATIONS DID NOT INCLUDE ANY REFERENCE TO "PARENTAL LEAVE," EITHER PAID OR UNPAID, BUT RATHER CONCENTRATED ON WAGE INCREASES, ADDITIONAL LONGEVITY BENEFITS AND MATTERS DEALING WITH THE WORKPLACE.

AS REGARDS POTENTIAL NEW EMPLOYEES, TO DATE WE HAVE NOT FOUND PARENTAL LEAVES, EITHER PAID OR UNPAID, TO HAVE BEEN OF EVEN REMOTE SIGNIFICANCE AS A CONDITION OR BENEFIT OF EMPLOYMENT. I WOULD MENTION HERE THAT, ACCORDING TO OUR BENEFIT CONSULTANT, THE CURRENT "CAFETERIA STYLE" BENEFITS PROGRAM IS NOT A VIABLE OPTION FOR A COMPANY OF OUR SIZE.

THUS, TO THE EXTENT THAT S. 249 PROVIDES FOR UNPAID PARENTAL LEAVES AND THAT SUCH LEAVES MAY BE OF MAJOR IMPORTANCE TO MANY, THE EMPLOYEES AT ROCKFORD COATINGS DO NOT APPEAR TO DESIRE THEM.

Secondly, I would like to address the provision of S. 249 that concerns the protection of the seriously ill employee. Rockford Coatings provides both short- and long-term disability benefits that compensate those employees who qualify. I note, however, that the guidelines in S. 249 for defining "serious illness" are much broader than those in our disability plans. If it is the intention of S. 249 to expand "serious illness" beyond the definitions within standard disability plans, then our coverage -- and perhaps that of many companies -- does not entirely satisfy the protection envisioned by the bill. The employees at Rockford Coatings value this benefit and have not indicated that it does not adequately meet their protection.

The matter of reinstatement to the former position is always honored, subject to the returning employee's health as judged by his or her physician. Fortunately, we have had few employees who have been disabled, and it has never happened to anyone in a management or supervisory position. I believe most companies would have difficulty holding such positions open for several months and that most employees would not expect it. Since our company has relatively few management or supervisory positions at all and to the extent that each department is unique, the provision that requires reinstatement to a position of equal status would present a problem in terms of definition alone.

In summary, I think that Rockford Coatings, to the extent that it is able, succeeds in meeting the intent of S. 249 as it pertains to the protection of the seriously ill employee. Legislation would be redundant.

THUS FAR, I HAVE ATTEMPTED TO PRESENT ARGUMENTS AGAINST PASSAGE OF S. 249 THAT DEMONSTRATE IN THE CASE OF ONE COMPANY, UPAID PARENTAL LEAVES ARE NOT DESIRED BY THE EMPLOYEES, AND, PROTECTION OF THE SERIOUSLY ILL EMPLOYEE IS ALREADY PROVIDED.

VIS-A-VIS POINTS 3 AND 4 IN THE SECTION OF THE BILL ENTITLED "FINDINGS," I DON'T SEE ANY WAY IN WHICH THE EMPLOYMENT POLICIES, OR LACK THEREOF, AT ROCKFORD COATINGS CAN BE THOUGHT EITHER TO "FORCE MANY INDIVIDUALS TO CHOOSE BETWEEN JOB SECURITY AND PARENTING" OR TO FAIL TO PROVIDE ADEQUATE "JOB SECURITY FOR EMPLOYEES WHO HAVE SERIOUS HEALTH CONDITIONS THAT PREVENT (THEM) FROM WORKING FOR TEMPORARY PERIODS." IN MANY INSTANCES, OUR COMMITMENT TO JOB SECURITY AT ROCKFORD COATINGS HAS GONE FAR BEYOND THAT CONTAINED IN THE BILL. OUR COMPANY IS NOT UNIQUE IN THIS WAY, AND I HAVE READ OF MANY EMPLOYERS THAT PROVIDE EXTREMELY GENEROUS BENEFITS TO THEIR PEOPLE. I DO NOT IN ANY WAY QUESTION THE NEED TO RECOGNIZE AND RESPOND TO THE CHANGING NEEDS OF EMPLOYEES, BUT I STRONGLY QUESTION THE NEED FOR ANY LEVEL OF GOVERNMENT TO IMPOSE, WHETHER THROUGH MANDATED BENEFIT OR MINIMUM STANDARD, THE REQUIREMENTS SET FORTH IN S. 249 ON ALL COMPANIES.

AND SHOULD OUR COUNTRY BE ADVOCATING A PUBLIC POLICY THAT FAVORS FAMILIES IN THE HIGHER TAX BRACKETS, THOSE WHO CAN AFFORD TO TAKE SUCH EXTENDED LEAVES? I THINK WE WOULD ALL AGREE THAT IF PARENTAL AND MEDICAL LEAVE LEGISLATION SHOULD BE ENACTED, IT CONCEIVABLY COULD BE FINANCIALLY BURDENSOME FOR LOW-WAGE EARNERS.

And I would ask you to consider the impact that the exercise of these leaves would have on manufacturers such as we. Trained paint chemists, for example, are difficult to find for even full-time positions, and they do not exist in the temporary market. In addition, those of us in high-hazard industries could not run the risk of random streams of temporary help on the shop floor. The paint salesman, chemist, purchasing agent, expeditor, batch maker, mill operator, processor, shader, quality controller, filler, shipper and tech service rep cannot do their jobs independently of each other, or from their living rooms. In short, there is only one employee of the 87 people at Rockford Coatings who can be absent from the workplace, and it is I.

Many of us are anxious about the proposed legislation now before Congress, all from our own perspective. Those of us in chemical-related industries are particularly vulnerable and subject to liability, some of which is not merited within reasonable concepts of justice. As frequently is the case, mandated government policies and regulations involve employers in costly litigation -- sometimes unjustly. Superfund is an example of such a mandate. In our case, our company has voluntarily contributed heavily toward cleaning up a Superfund site which we did not create, and in exchange for this, we are assured that our liability will never end. Insurance does not exist for these burdens, and for those companies too small to self-insure, the risk to the owners are grave.

So I ask, how do we protect ourselves and our employees if we can't "get our paint out the door?"

I am under the impression that small manufacturing is not well understood in the wider community, and I think this is understandable. Our businesses are low-profile, and our products tend not to make it to the body of the car, but rather lurk under the hood. Many of you are familiar with the TV program "Miami Vice." I would love to see a similar series -- "Rockford Rust," in which Sonny Crockett and Rico Tubbs sweep through the industrial parks of Illinois, routing out corrosion and rescuing its victims with 55-gallon drums of high performance EPA-compliant hi-solids polyester paint. If this sounds impassioned, I agree; but we're a company that in its 81-year history has never had a plant closing or a lay-off, has given a salary increase every year since 1958, has fully funded its pension plans and gives to its country and asks little in return. I think we're a deal not to be missed.

So, on behalf of American small businesses that have asked for no mandated benefits, on behalf of Illinois taxpayers who are investing heavily to attract new industry and on behalf of those people in Rockford who no longer have jobs to leave, I urge the defeat of this bill.

I again would like to thank Senator Dodd and the Subcommittee for holding these hearings and affording me time to speak.

Senator **Dodd**. Mr. O'Keefe, we will hear from you.

STATEMENT OF ROBERT O'KEEFE, FEL-PRO, INC., SKOKIE, IL

Mr. **O'Keefe**. Senator Dodd, the company I represent is Fel-Pro, Inc. We are in the automotive industry, which is involved in a worldwide competitive battle where our U.S. competitive rates do not compare favorably to those of other nations.

Fel-Pro supports a federally mandated leave of absence policy to help workers cope with the heavy stress that is created by trying to balance the often conflicting demands of work and family life.

At Fel-Pro, our Personal Leave Policy allows unpaid leave of absence to care for a child, newborn, adopted, or sick, and care of spouse or parent. Personal leave, normally, may not exceed two months. But under certain circumstances, additional time may be granted. Fel-Pro's leave of absence policy will reinstate employees to his, or her, former position, whose combined leave time does not exceed six months.

Our philosophy in our company is to create a family atmosphere in the workplace, and make the workplace a congenial, pleasant place to spend time, communicate a sense of concern to our employees for their well-being. To the extent that Fel-Pro can accomplish these things, we believe that our company is more than repaid through employee loyalty, creativity, hard work, and concern for quality.

Our firm owns and operates a 220-acre recreational facility which is about 40 minutes from our plant in Skokie, where for nine weeks each summer over 300 children of our employees spend the day at a professionally-run day camp that is owned by our organization. Buses pick up the children in the morning at the plant and return them at shift's end. Our Day Camp Program keeps kids constructively occupied all summer rather than on our Chicago streets. It is an example of where we enable our employees to concentrate more fully on the job at hand.

Child care arrangements have become a major concern in many households where both parents work. We have a day care center. It was begun four years ago and was the second day care center to be opened in the State of Illinois, operated by a private business. Over 40 children now attend our center and their parents are able to spend their workday free from concerns that their children are not being properly cared for.

We offer both scholarships and tutoring programs. Employees' children, enrolled in college and earning passing grades receive tuition reimbursement of $2,500 annually, and that is offered to all employees. Employee children with functional or emotionally based learning disabilities are receiving one-to-one tutoring in their homes, normally three times per week. This is preceded by testing and evaluation from which individual programs are developed. Our company pays the major cost.

Why do we do these things, Senator Dodd? We feel that our benefit programs and our policies create a highly motivated work force. Motivated employees cope better with rapid change. Motivated employees resist complacency. Motivated employees are open to the continual questioning of methods, procedures, and work practices which is necessary for survival in today's competitive world. We feel good business and good employee relations go hand in hand.

We believe that a leave policy should be federally mandated, since it will reduce serious tensions when employees have a family demand that can now only be answered by having to quit their job or be fired. Because it is an unpaid leave, very few will take advantage of this policy, so we should not fear how expensive it might be.

Sound in-family support of legislation, as you advocate, Senator, is important to our country.

Thank you.

Senator Dodd. Thank you very much, Mr. O'Keefe. We will have some questions for you when we come back.

[The prepared statement of Mr. O'Keefe follows:]

WRITTEN STATEMENT FOR SEPTEMBER 14, 1987 HEARING

PARENTAL AND TEMPORARY MEDICAL LEAVE, S.249

ROBERT C. O'KEEFE
VICE PRESIDENT, INDUSTRIAL RELATIONS
FEL-PRO INCORPORATED
7500 NORTH MCCORMICK BLVD.
SKOKIE, IL 60076

FEL-PRO ADVOCATES
FEDERALLY MANDATED PERSONAL LEAVE POLICY

THE COMPANY I REPRESENT IS FEL-PRO INCORPORATED. WE ARE IN THE AUTOMOTIVE INDUSTRY WHICH IS INVOLVED IN A WORLDWIDE COMPETITIVE BATTLE WHERE U.S. COMPETITION RATES DO NOT COMPARE FAVORABLY TO THOSE OF OTHER NATIONS. FEL-PRO SUPPORTS A FEDERALLY MANDATED LEAVE POLICY TO HELP WORKERS COPE WITH THE HEAVY STRESS CREATED BY TRYING TO BALANCE THE OFTEN CONFLICTING DEMANDS OF WORK AND FAMILY LIFE.

AT FEL-PRO OUR PERSONAL LEAVE POLICY ALLOWS UNPAID LEAVE OF ABSENCE TO CARE FOR A CHILD (NEWBORN, ADOPTED OR SICK) AND CARE OF SPOUSE OR PARENT. PERSONAL LEAVE NORMALLY MAY NOT EXCEED TWO MONTHS, BUT UNDER CERTAIN CIRCUMSTANCES ADDITIONAL TIME MAY BE GRANTED. FEL-PRO'S LEAVE OF ABSENCE POLICY WILL REINSTATE EMPLOYEES TO HIS OR HER FORMER POSITION WHOSE COMBINED LEAVE TIME DOES NOT EXCEED SIX MONTHS.

OUR COMPANY HAS ALWAYS PLACED AN EXTREMELY HIGH EMPHASIS ON HARMONIOUS LABOR-MANAGEMENT RELATIONS. MAINTAINING SUCH RELATIONS IS ONE OF THE BEDROCK VALUES OF OUR FIRM. I WILL GIVE EXAMPLES OF WHAT WE DO TO INSURE HARMONIOUS LABOR-MANAGEMENT RELATIONS NOT TO "TOOT OUR HORN" BUT TO SHOW YOU WHAT'S POSSIBLE.

THE FEL-PRO PHILOSOPHY IS TO CREATE A FAMILY ATMOSPHERE IN THE WORKPLACE. MAKE THE WORKPLACE A CONGENIAL, PLEASANT PLACE TO SPEND TIME. COMMUNICATE A SENSE OF CONCERN TO OUR EMPLOYEES FOR THEIR WELL BEING. TO THE EXTENT THAT FEL-PRO CAN ACCOMPLISH THESE THINGS, WE BELIEVE THAT FEL-PRO IS MORE THAN REPAID THROUGH EMPLOYEE LOYALTY, CREATIVITY, HARD WORK, AND CONCERN FOR HIGH QUALITY.

ONLY HIGHLY MOTIVATED WORKERS, WHO FEEL GOOD ABOUT THEIR PLACE OF EMPLOYMENT, AND WHO FEEL THEY ARE BEING TREATED FAIRLY WILL WHOLEHEARTEDLY AND ENTHUSIASTICALLY IDENTIFY AND IMPLEMENT PRODUCTIVITY IMPROVEMENTS. IF WORKERS FEEL THEIR COMPANY HAS CONSISTENTLY DEALT WITH THEM OPENLY AND FAIRLY, THEY WILL GET BEHIND PRODUCTIVITY PROGRAMS AND BECOME THEIR MOST IMPORTANT ASSET.

IT IS OUR GOAL TO PROMOTE A FEELING THAT WE ARE TRULY A CORPORATE FAMILY. OVER 50% OF OUR EMPLOYEES ARE RELATED TO SOMEONE ELSE IN THE ORGANIZATION. MANY COMPANIES TAKE AN OPPOSITE ATTITUDE BUT WE ENCOURAGE OUR EMPLOYEES TO ASK THEIR RELATIVES AND FRIENDS TO APPLY FOR JOBS. WE FEEL WINNERS ARE LIKELY TO BE RELATED TO, OR BE FRIENDS WITH, OTHER WINNERS. SOMETIMES WE HAVE TO MAKE TOUGH DECISIONS WHEN DISCIPLINING OR TERMINATING A RELATIVE. BUT ON BALANCE, WE HAVE FOUND THAT THE EMPLOYEES SEEM TO ENCOURAGE THEIR OWN FAMILY MEMBERS TO STRIVE FOR EXCELLENCE THUS BINDING THE FAMILY AND THE COMPANY EVEN CLOSER. PEER PRESSURE IS AN IMPORTANT MOTIVATOR. WHEN MULTIPLIED BY THE NOTION OF FAMILY HONOR, IT BECOMES A POWERFUL FORCE.

THREE TIMES A YEAR A MANAGEMENT LETTER IS SENT TO THE EMPLOYEES' HOMES SIGNED BY ALL MEMBERS OF SENIOR MANAGEMENT. THIS LETTER IS A PERIODIC UPDATE ON THE BUSINESS CONDITIONS, SUCCESS STORIES, AND CHALLENGES THAT THE COMPANY IS FACING. OUR EFFORTS TO COMMUNICATE DIRECTLY TO OUR EMPLOYEES' HOMES ARE DELIBERATE. TO THE EXTENT THAT WE CAN INVOLVE OUR EMPLOYEES' FAMILIES IN WHAT IS GOING ON IN THE WORKPLACE, THEY WILL BE SUPPORTIVE WHEN OVERTIME OR BUSINESS TRAVEL IS REQUIRED.

SIX DIVISIONAL PICNICS ARE HELD EACH SUMMER. THESE PICNICS ARE PLANNED BY AN EMPLOYEE COMMITTEE AND REPRESENTATIVES OF SENIOR MANAGEMENT ARE ALWAYS IN ATTENDANCE. PICNICS GIVE AN INFORMAL OPPORTUNITY FOR EMPLOYEES AND MANAGEMENT TO SOCIALIZE TOGETHER, NOT ONLY WITH EMPLOYEES THEMSELVES, BUT WITH THEIR EXTENDED FAMILIES.

WE REGULARLY REMIND EACH AND EVERY FEL-PRO EMPLOYEE THAT HE OR SHE IS AN IMPORTANT PERSON. FOR EXAMPLE, ELECTRONIC SIGN BOARDS AT OUR MAIN FACTORY ENTRANCE AND IN THE CAFETERIA ACKNOWLEDGE EMPLOYEES CELEBRATING BIRTHDAYS THAT DAY, OR ANNIVERSARIES OF EMPLOYMENT WITH OUR COMPANY.

THROUGHOUT THE YEAR, WE GIVE SPECIAL SEASONAL GIFTS TO OUR EMPLOYEES. ON VALENTINE'S DAY, WE SEND HOME A BOX OF CANDY; ON EASTER, WE SEND A HAM; ON MOTHER'S DAY, WE GIVE FLOWERS; ON JUNE 1ST, WE HAVE AN EXTRA DAY'S PAY TO BE USED FOR VACATION PURPOSES; ON FATHER'S DAY, WE HAVE VARIOUS GIFTS, SUCH AS BELT BUCKLES, TIES, PHOTO ALBUMS, ETC.; ON THANKSGIVING DAY, WE SEND PISTACHIO NUTS FOR THE FAMILY, AND ON CHRISTMAS, WE GIVE EACH EMPLOYEE A TURKEY. THE COST OF THESE GIFTS IS ALMOST INSIGNIFICANT, BUT THE MILEAGE IS GREAT.

WE LIKE TO ACKNOWLEDGE SPECIAL FAMILY OCCASIONS. FOR EXAMPLE, WHEN A NEW BABY IS BORN, THE MOTHER WILL RECEIVE FLOWERS IN THE HOSPITAL AND THE BABY WILL RECEIVE A $1,000 TREASURY BILL MADE OUT IN THE BABY'S NAME AND DUE ON THE BABY'S 21ST BIRTHDAY. WE ALSO SEND A PAIR OF BABY SHOES WITH THE DATE OF BIRTH AND THE NAME OF THE BABY ON THEM, ALONG WITH OUR BEST WISHES TO THE FAMILY. WHEN AN EMPLOYEE GETS MARRIED, WE SEND THEM A $100.00 WEDDING GIFT, AND IF TWO EMPLOYEES GET MARRIED, THEY EACH GET $100.00.

AT THE TIME OF HIGH SCHOOL GRADUATION, AN EMPLOYEE'S CHILD WILL RECEIVE A $100.00 GRADUATION GIFT. ON THE EMPLOYEE'S BIRTHDAY, WE MAIL HOME AN EXTRA DAY'S PAY. THE SAME FOR THE EMPLOYEE'S ANNIVERSARY. I CAN'T OVEREMPHASIZE THE IMPORTANCE OF SENDING MANY OF THESE GIFTS AND COMMUNICATIONS HOME SO THAT THE ENTIRE FAMILY FEELS A SENSE OF BELONGING TO FEL-PRO.

FEL-PRO OWNS AND OPERATES A 220 ACRE RECREATIONAL FACILITY WHICH IS A 40-MINUTE DRIVE FROM SKOKIE, WHERE FOR NINE WEEKS EACH SUMMER, OVER 300 CHILDREN OF EMPLOYEES SPEND THE DAY AT A PROFESSIONALLY RUN DAY CAMP. THIS FACILITY WAS NAMED BY OUR EMPLOYEES AS TRIPLE R WHICH MEANS REST, RECREATION AND RELAXATION. BUSES PICK UP THE CHILDREN IN THE MORNING AT THE PLANT, AND RETURN THEM AT SHIFT'S END. OUR DAY CAMP PROGRAM KEEPS KIDS CONSTRUCTIVELY OCCUPIED ALL SUMMER RATHER THAN OUT ON THE CHICAGO STREETS. IT IS AN EXAMPLE WHERE WE ENABLE OUR EMPLOYEES TO CONCENTRATE MORE FULLY ON THE JOB AT HAND. FOR THE ENTIRE FAMILY, TRIPLE R PROVIDES FACILITIES FOR SUMMER ACTIVITIES LIKE GARDENING, SWIMMING, FISHING, AND WINTER ACTIVITIES, SUCH AS CROSS COUNTRY SKIING AND TOBOGGANING. TRIPLE R IS LIKE OUR EMPLOYEES' OWN PRIVATE COUNTRY CLUB AND THEY CAN INVITE THEIR FRIENDS AND RELATIVES. LAST YEAR, WE HAD OVER 15,000 PEOPLE ATTEND TRIPLE R. COMMUNITY GROUPS ALSO MAKE USE OF THIS LOVELY FACILITY.

CHILD CARE ARRANGEMENTS HAVE BECOME A MAJOR CONCERN IN MANY HOUSEHOLDS WHERE BOTH PARENTS WORK. WE HAVE A DAY CARE CENTER. IT WAS BEGUN FOUR YEARS AGO AND WAS THE SECOND DAY CARE CENTER TO BE OPENED IN THE STATE OF ILLINOIS OPERATED BY A PRIVATE BUSINESS. WE WERE FEARFUL OF THE LICENSING PROCEDURES, AND NERVOUS THAT THE PROGRAM WOULD BE DISTRACTING FOR THE PARENTS OF THOSE CHILDREN INVOLVED. WE WERE ALSO RELUCTANT TO ADD A BENEFIT NOT UTILIZED BY A GREAT MAJORITY OF EMPLOYEES.

OUR CONCERNS WERE ILL FOUNDED, AND THIS PROGRAM HAS WORKED OUT BEAUTIFULLY. OVER 40 CHILDREN NOW ATTEND THE CENTER, AND THEIR PARENTS ARE ABLE TO SPEND THEIR WORK DAY FREE FROM CONCERNS THAT THEIR CHILDREN ARE NOT BEING PROPERLY CARED FOR. NEWSWEEK MAGAZINE RAN A COVER STORY ON DAY CARE AND USED THREE PHOTOS TAKEN AT OUR CENTER. NEWSWEEK'S DISCUSSION OF DAY CARE IN AN INDUSTRIAL SETTING FOCUSED EXCLUSIVELY ON OUR PROGRAM.

WE OFFER BOTH SCHOLARSHIP AND TUTORING PROGRAMS. EMPLOYEE CHILDREN ENROLLED IN COLLEGE AND EARNING PASSING GRADES RECEIVE TUITION REIMBURSEMENT OF $2,500 ANNUALLY. EMPLOYEE CHILDREN WITH FUNCTIONAL OR EMOTIONALLY BASED LEARNING DISABILITIES ARE RECEIVING ONE-TO-ONE TUTORING IN THEIR HOMES, NORMALLY THREE TIMES PER WEEK. THIS IS PRECEDED BY TESTING AND EVALUATION FROM WHICH INDIVIDUAL PROGRAMS ARE DEVELOPED. OUR COMPANY PAYS THE MAJOR COST.

WHY DO WE DO THESE THINGS? WE FEEL THAT OUR BENEFIT PROGRAMS AND POLICIES CREATE A HIGHLY MOTIVATED WORK FORCE. MOTIVATED EMPLOYEES COPE BETTER WITH RAPID CHANGE. MOTIVATED EMPLOYEES RESIST COMPLACENCY. MOTIVATED EMPLOYEES ARE OPEN TO THE CONTINUAL QUESTIONING OF METHODS, PROCEDURES, AND WORK PRACTICES WHICH IS NECESSARY FOR SURVIVAL IN TODAY'S COMPETITIVE WORLD. WE FEEL GOOD BUSINESS AND GOOD EMPLOYEE RELATIONS GO HAND IN HAND. WE PAY WELL, HAVE OUTSTANDING BENEFITS, AND IN RETURN GET LOYALTY, HIGH PERFORMANCE, AND REASONABLY ENTHUSIASTIC, WHOLEHEARTED PARTICIPATION IN CONTINUING PRODUCTIVITY CAMPAIGNS THAT KEEP US COMPETITIVE.

WE BELIEVE A LEAVE POLICY SHOULD BE FEDERALLY MANDATED SINCE IT WILL REDUCE SERIOUS TENSIONS WHEN EMPLOYEES HAVE A FAMILY DEMAND THAT CAN NOW ONLY BE ANSWERED BY HAVING TO QUIT THEIR JOB OR BE FIRED. BECAUSE IT IS AN UNPAID LEAVE, VERY FEW CAN AFFORD TO TAKE ADVANTAGE OF THIS POLICY SO WE SHOULD NOT REALLY FEAR IT WILL BE USED BY MANY.

Senator DODD. Ms. Cartwright, we thank you for being here this morning.

STATEMENT OF RUBY L. CARTWRIGHT, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, BENTON HARBOR, MI

Ms. CARTWRIGHT. Thank you, Senator.

Since you have introduced us earlier and asked us to try to be brief, I will condense my written testimony somewhat.

Senator DODD. Thanks.

Ms. CARTWRIGHT. I would like to start with our company which was founded in 1954 with about four employees. We now have six warehouses. We have one hundred, plus or minus, employees. For those full-time employees, we provide a company-paid health and dental program for the employee and dependents, company-paid life insurance for the employee and dependents, company-provided long-term disability income. Let's not confuse that with, you know, if you have three weeks, and the doctor says you can't work—it is still covered. We have a fully paid vacation plan: Two weeks, with as little as 12 months of service. And we have a company-paid retirement plan.

We have calculated our costs for an 18-week leave, a copy of which is attached to my written testimony. The employee replacement cost is short of actual cost for several reasons, but the major reason is that when you have been given seven months' notice that there will be a six-week period that one person will not be on the job, you attempt to have a replacement with some knowledge in place to fill the void. We currently have one lady on maternity leave and her replacement was on the job two months prior to her confinement. At one of our other offices we have a lady due to deliver mid-September. She did. Since her confinement was to occur during a busy season, her replacement was hired in June. The length of this person's employment will trigger the health and dental coverage because 60 days on the job, that comes into play. And, of course, when she is terminated there will be unemployment costs and, of course, our Workmen's Comp., and that kind of thing and the related payroll taxes.

No business can expect to hire a replacement and expect immediate efficiency. We are a service business and it is more than just inefficiency. It has a price tag attached. In our business, if we were to put an inexperienced data clerk in place, there could be misshipments because of incorrect inventory identification to the lift-truck operator who could be pulling the wrong product and loading it outbound. Due to an entry error, the inventory could be "lost in the computer" with the result of non-billing of our service charges and then when the customer wants to withdraw the inventory, we look like a sloppy warehouseman when we tell the customer that he has no product. Some of our warehouses are very large. In fact, the corporate headquarter office is a quarter of a mile in length and, if we don't know where we put that inventory, we are going to spend time looking for it and there is a cost attached. If we put an inexperienced lift-truck driver handling the product—one pallet of cherries weighs 2,400 pounds and the current price of cherries is 32 cents a pound—and if that pallet gets tipped, all those sweet cherries are dumped. Not only do we pay for those cherries, but there is a cost involved to clean up that sugary mess.

That is going to be my testimony. I am going to stop there. But, as I have listened today to the first panel, my testimony is going to sound heartless. That's not the case. We value families as much as anybody else, but there has to be an income for those families. All we have to sell are our services. We need our people. I talked to our people before coming over here. I am talking about "top to bottom". Everybody just didn't understand where this legislation is coming from. They said, "Well, I'd need a couple of days to get things under control, but I need to be working." This kind of thing is best resolved between the employee and the employer. We need to work out on an individual basis what those needs are. There is leave available for people. The employer needs to know what those needs are and meet those needs on an individual basis. One of our employees expressed to me how unhappy he would be because he doesn't foresee the need. Certainly, he is not going to be a parent, he says. That's past. And he is going to be unhappy if he sees people who are getting time off when he has to work harder to cover that void. So you are facing a potential morale problem.

You can't afford to implement new things that people might want and need, if you have things that are being mandated. You have to keep these things in place. There are other needs that need to be met, something that may not be in place now, something the employees might want, but you are fearful to implement new fringes, new costs, when you have things that the government says you have to do.

As I listened to Mr. O'Keefe, I question whether he could continue to afford the tutoring and the summer activities that he indicated they have. These are things that nobody has mandated. But if there are things that they are forced to do, can they continue these?

And, with that, I thank you.

Senator DODD. Thank you very much, Ms. Cartwright.

[The prepared statement of Ms. Cartwright follows:]

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National Federation of
Independent Business

NFIB

STATEMENT OF

Ruby L. Carthwright
Vice President and Corporate Treasurer
SOUTHERN MICHIGAN COLD STORAGE COMPANY

AND

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before:	Subcommittee on Children, Families, Drugs and Alcoholism of the Senate Labor and Human Resources Committee
Subject:	S.249, Family and Medical Leave Act
Date:	September 14, 1987 Chicago, Illinois

SOUTHERN MICHIGAN
COLD STORAGE CO

Subject: Family and Medical Leave Act of 1987, Bill #S249

Dated September 9, 1987

Mr. Chairman, members of the Sub Committee, I am Ruby L. Cartwright. I am Vice President and Corporate Treasurer of Southern Michigan Cold Storage Co., a Michigan Corporation with headquarters in Benton Harbor, Michigan. I appear today on behalf of National Federation of Independent Business and I wish to also submit their testimony for the record.

Our firm is a public warehouse organization, founded in 1954 by growers with crops, fresh and processed, without facilities in which to store them. We sell only our services. Our services are rendered to our customers with a need to warehouse paper products, automobile parts, canned fruits, vegetables, pie filling or! frozen vegetables, fruits, meat and other food products. You name it and we warehouse it until our customer has need to process the frozen fruit into pies, manufacture the parts into a finished product or put the frozen food(s) into the grocery frozen food section for the consumer.

I wish to thank the Committee for the opportunity to testify on the Family and Medical Leave Act of 1987, Bill #S249 and what it can and will do to all businesses, large and small. The small businesses will run the risk of financial jeopardy and the larger organizations if successful, will pass the cost along to the consumer in the form of a more costly product.

Our company has grown from one small warehouse in 1954 with about 4 employees to the 6 warehouses that we operate today with 100 plus or minus full time employees.

For these full time employees we provide:

Company paid Health and Dental for the employee and dependents
Company paid Life Insurance for the employee and dependent
Company paid Long Term Disability Income.*
With 12 months of service, 2 weeks paid vacation.
Company paid Retirement Plan

*For the first 90 days of disability the employee will receive a regular company payroll check for 60% of the weekly gross, calculated at 40 hours times the current rate of pay. At the end of 90 days the employee is paid by the insurance which is provided at no cost to the employee. The payment level is still 60% of weekly gross and will continue if medically necessary, to age 65. At this point may I state that this 60% of gross is also paid for maternity leave, for 6 weeks

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following delivery and longer if the mother is deemed by her doctor to still be disabled. This 60% would be paid to the lady experiencing a difficult pregnancy. The mother-to-be would be required to provide a doctors statement that she is unable to work. There is no interruption of insurance coverage and all our ladies have returned to their jobs. We do not however, have "guaranteed jobs". We sell a service and must have our people to perform those services.

We have calculated our cost for a 10 week leave, copy attached. The employee replacement cost is short of actual cost for several reasons with the major reason being that when you have been given 7 months notice that there will be a 6 week period that one person will not be on the job you attempt to have a replacement with some knowledge in place to fill the void. We currently have one lady on maternity leave and her replacement was on the job for about 2 months prior to her confinement. At one of our other offices we have a lady due to deliver mid-September. Since her confinement will occur during a busy season for us the replacement was hired early June. The length of employment for this replacement will trigger health and dental coverage and of course there will be unemployment when termination occurs because this person is on our payroll and not through an agency, workmen's compensation insurance plus the related payroll taxes.

No business can expect to hire a replacement and expect immediate efficiency. In our service business its more than just inefficiency which does have a price attached. In our business, if we were to put an inexperienced data clerk in place, there could be mis-shipment because incorrect inventory identification could be given to the lift truck operator who would be pulling the product and loading the outbound vehicle. Due to an entry error the inventory could be "lost in the computer" with the resulting non billing of charges and when the customer wants to withdraw the inventory we look like a sloppy warehouseman when we state that there is no product and must then search our warehouse which has a cost in lost manpower. The inexperienced lift truck operator could spill a 2,400 pound pallet of processed cherries and at the current price of 32 cents per pound this becomes expensive. Who pays the price? The warehouseman!

Now we have people without actual day to day business experience telling us what we must provide to people who are not working when the only thing that we have to sell is the service of these employees or in the case of a manufacturer the product that is produced. Without actual business experience I question whether they realize what a struggle it can be to increase the price for service or product. What it is like to maintain facilites in which to provide the jobs. Pay a decent wage, provide a good fringe program that keeps the employee happy, pay the taxes and watch that your elected officials are not driving you out of business because the cost has not been calculated on legislation such as Bill #S249.

This Family and Medical Leave legislation must be stopped. We worry because the American made product is not competitively priced. How can it be? Our pay scale is higher, our fringes greater and more expensive.

Thank you for consideration of my remarks.

SOUTHERN MICHIGAN
COLD STORAGE CO

18 WEEK MEDICAL LEAVE

COMPUTATION

Based on $8.83 average hourly rate

6 weeks at 60% disability - 211.92 x 6 weeks	$1,271.52
5 months health for family x $187.80	$ 939.00
5 months dental for family x $35.27	$ 176.35
5 months life insurance, $12,000 x .44 per M	$ 26.40
5 months life on dependent(s) x .90	$ 4.50
5 months AD&D $12,000 x .072 per M	$ 4.30
5 months LTD insurance $918.00 x $1.35 per C	$ 61.95
Workers Compensation on $1,271.52 x $9.18 per C	$ 116.73
Employer portion of FICA @.0715% x $1,271.52	$ 90.91
Employer Federal Unemployment on $1,271.52 x .008%	$ 10.17
Employer State Unemployment (MI) $1,271.52 x .095%	$ 120.79
18 week retirement 720 hours x .15	$ 108.00
Vacation accrual (3 weeks x 40 hrs=120 hours x $8.83= $1059.60. $1,059.60 divide by 52 weeks=$20.38 per week x 18 weeks	$ 366.84
Sick time accrual, 1/2 day per month x 4 1/2 months= 18 hours x 8.83	$ 158.94
EMPLOYEE COST TOTAL	$3,456.40
Temporary replacement person through employment agency 18 weeks x 40 = 720 hours x 9.00	$6,480.00
TOTAL COST	$9,936.40

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National Federation of
Independent Business

NFIB

STATEMENT OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Submitted to:	Subcommittee on Children, Families Drugs and Alcoholism of the Senate Labor and Human Resources Committee
Subject:	S. 249, proposal for Government Mandated Family and Medical Leave
Date:	September 14, 1987

The National Federation of Independent Business is a voluntary membership organization with over 500,000 small business owner members. Our membership comes from all of the industrial and commercial categories and reflects the national small business community in its distribution among industries. That is, we have about the same percentage of members in the construction industry, the manufacturing industry, wholesale, retail, etc., as exists in the national business profile.

We at NFIB appreciate this opportunity to submit testimony on proposed legislation mandating family and medical leave benefits, or "parental leave", as it is referred to in the small business community.

The 1986 White House Conference on Small Business voted opposition to government mandated benefits, such as parental leave, as their number two priority -- second only to the liability insurance crisis, receiving 1,360 votes of 1,715 ballots cast. While the recommendation was to oppose all federal mandates, it was parental leave that brought this issue into focus, and opposition to these bills was specifically cited.

Likewise, the results of our September 1986 Mandate polling were 83% opposed government mandated parental and medical leaves (11% favored and 6% undecided). The results for the state of New York varied only slightly: 80% opposed, 13% favored, and 7% undecided.

Beyond the practical difficulties and costs associated with this particular mandate, which we will elaborate on later, the small business community's strong and vocal opposition to parental leave is an outcry of rage on principle: that the Congress would force its judgment onto the employer-employee relationship to a new and unprecedented degree.

Small business owners fear that such a precedent, once set, would open the floodgates to an increasing number of attempts to force businesses to pay for every benefit deemed desirable by various elements in the national workforce. Indeed, in the 100th Congress alone, we have a plethora of mandate proposals: the Kennedy/Waxman bills mandating health insurance coverage, the Stark/Gradison proposal for mandated catastrophic coverage, the Ways and Means Committee considering employer-paid continuation of health insurance coverage former for employees and their dependents. All this while the ink is not yet dry on the "COBRA" provisions passed without debate in 1986.

Practical Difficulties in Implementing Mandated Parental Leave

Providing for parental and medical disability leaves is common sense and in most cases, good sound business; mandating these leaves will be disasterous because of the the cost and practical difficulties in implementing these leaves.

Small firms are labor intensive, and it's not unusual for each employee to wear more than one hat; it could be impossible to get temporaries who can perform this variety of functions.

In larger firms, individual job units could be severely hampered by the loss of one employee. One NFIB member who has testified on these bills provides an excellent example. She owns a paint manufacturing plant with 89 employees. They are a job shop: each paint formula is developed to customer specifications, and all paint is manufactured per customer order. The paint they make goes directly on the customer's line and is an integral part of his manufacturing process. Because of this, there is great demand for continual technical service. Her company's particular strength is its ability to both respond quickly to customer line emergencies and meet the short lead times required by just-in-time deliveries.

The company provides group life and medical insurance, for which it contributes 80 pecent of the premium; both short- and long-term disability coverage; and a new 401(K) plan at the request of the employees. They have given salary and wage increases every year since 1958, have had one strike in their 80-year history, but not had even one lay-off. She has testified:

> The company encourages long-term employment and makes every effort to accommodate the special needs of its employees when problems occur. The flexibility needed to make these accommodations would be limited if government were to begin mandating benefits such as leave.
>
> If it were to pass, it would have severe consequences for Rockford Coatings because it would require leaves of such a nature and length that it would threaten the stability of our business. If the legislation were in effect today, paternity leave alone would cost our company four months' service of 10 percent of our technical force, including our Rockford lab manager. Paint chemists and service technicians are not available in the temporary market. We would have to choose between overburdening other employees or violating an unreasonable law by denying the leave or hiring replacements. Surely, lawsuits would be inevitable, productivity would suffer and the costs would be grave.

By way of further illustration, consider the description of a small business distributing medical supplies in East Providence, Rhode Island.

> The bill incorrectly address "all firms with 15 or more employees" but fails to acknowledge that all 15 jobs within a firm are not interchangeable. For example, a typical small distribution firm is staffed as follows:
>
> 1 Administrator
> 1 Accounting/Finance person
> 1 Accounts Receivable clerk
> 1 Accounts Payable clerk
> 1 Receiver
> 1 Warehouseman
> 1 Shipper
> 2 Delivery Men
> 2 Salespeople
> 1 Purchasing
> 1 Customer Service/Telephone
> 1 Computer Operator/Programmer
> 1 Pricing Clerk/Terminal Operator
>
> Total 15
>
> When an employee is absent it's not as though we were 1/15th understaffed. We are 100% understaffed in that functional area. To fill any one functional job on a temporary basis for six months and then to guarantee the absent employee full re-employment rights represents an unrealistic demand placed upon the employer by the federal government.

If a company can hire a replacement for the leave period, what does the employer do when the original employee returns? Lay off the temporary and face the increased unemployment insurance (UI) cost? In all but 14 states, a temporary replacement laid off after working an 18 week leave period becomes eligible for unemployment benefits.

Then, too, some employers, as one NFIB member has testified, face a unique problem relating to the terms of their collective bargaining agreements. To protect the security of current union employees, the maximum time any temporary may stay within the craft classification is 60 days. In other words, a temporary would actually become a "temporary replacement", such that two to four different temporaries would be required to cover the leave period. The disruptions to the work flow and the team concept are obvious.

The alternative solution, covering for the missing employee with overtime from other workers, presents another set of problems. If an employer foregoes a replacement -- the costs of hiring and training -- and asks existing employees to fill in, he faces overtime costs at time-and-a-half or double-time, less productivity, and employee morale problems.

Due to the competitive nature of small business, necessary bid figures for contracts are usually quite precise and the margin for error slight. The concept of using overtime would require the employee, in order for the job to come in on time and within budget, to produce 150% of the normal hourly work. Practical reality indicates that this is not likely to happen. Overtime costs must then be absorbed by the business, reducing or eliminating profits.

Benefit Mandates are Detrimental to Employees, Too

In all businesses, and particularly small businesses, benefit packaging is a zero-sum game. There are only so many dollars to go around.

The types and feasibility of benefit packages differ for each employer, based on a variety of factors, such as type of industry, size and skill of the workforce, individual workforce needs, competing standards in the industry by geographic location and the ability to absorb or pass through costs.

For example, small employers typically institute vacation and sick leave benefits first. As their profitability increases, health insurance is the next most widely offered -- and desired -- benefit.

The number one problem for small employers, according to an NFIB survey, is the cost of health insurance. Legislating new benefits and requiring benefit coverage at employer cost during extended leave periods will only exacerbate this problem. Small businesses expand benefit coverage as their profitability increases; nowhere is this fact recognized in this legislation.

Mr. Chairman, with all due respect to the collective wisdom of the Congress, it just is not possible for Congress to decide for each of America's 112 million employees which benefit is the most important. In fact, it is patently unfair to mandate that a benefit plan for a 55 year-old woman, for example, contain a parental leave provision when such a mandate might well preclude the offering of a benefit, such as paid prescriptions, which is much more important for this particular employee.

All companies are not alike; all workforces are not alike; and certainly all employees are not alike. Flexibility on the part of the businesses and employees to decide on a benefit plan is crucial.

These mandates change the cost of employment and could affect a firm's employment decisions. Sixty-six percent of the jobs for young Americans are provided by small employers. They provide the bulk of the on-the-job training. Small business -- labor intensive and pressed for a competitive edge -- will be forced to overlook these same young men and women.

An architectural firm provides somber testament to "the detriment and harm it (H.R. 925) would cause to the young people of the future of the country":

> We have an Architectural firm with 65 employees, 60% of them are under 30 years of age. 30% have been with the firm over 20 years. The young people are professional, college graduates and our firm is known as "the springboard to Architecture" in Orange County. We provide Health Insurance, Life Insurance, Workmen's Compensation, paid vacations and major sick leave. There are approximately 400 to 500 architects in Orange County who have worked in our firm and left with our blessing to go on with their careers. Our entire program for young people will come to a roaring halt if this law is passed. We could no longer stay in business with a potential of 30 employees home on paid or unpaid leave, and obviously, all interviewing and hiring would be from the 40 years and older group.

Requiring employers to provide parental leave benefits sets up conditions for potential discrimination. When choosing between two equally qualified candidates, an employer may be more likely to hire the candidate least likely to take the leave.

Congress already has provided a chilling demonstration of this dynamic. In 1982, Congress amended the Age Discrimination in

Employment Act, requiring firms with 20 or more workers to provide health insurance for their employees aged 65-69. The amendments also require that the plan be the primary payer of health costs for those workers.

The small business community responded quickly, in the only way it could. Within a year, firms with fewer than 100 workers employed only two-thirds of the elderly workforce. Previously, they had provided jobs for more than three of every four.

Mr. Chairman, mandating these benefits may destroy the very jobs proponents seek to protect. Small businesses create the bulk of our nation's jobs. Small business created the jobs that absorbed the baby boom generation and made it possible for millions of women to move into the workforce. The rigidities and inflexibility of government-mandated benefits will hamper job creation, undermining the American small business miracle other countries marvel at and want desperately to duplicate.

Benefit Mandates in a Global Economy

American businesses do not operate in a vacuum. We are part of a global economy, in which we must be able and willing to compete. Small businesses, while not always on the front line, play a vital role as suppliers and in providing services throughout our economic chain.

The European experience with mandated benefits is that is has increased the fixed costs of hiring to the point of stagnation. Much of our competitiveness threat is now coming from Japan and Asia. The compensation in these countries is such that government mandating of even a minimal level of benefits for U.S. employees will most certainly reduce our competitiveness and is likely to result in the loss of U.S. jobs.

NFIB has coined a term for this very real danger -- "Europeanization." We fear the effects from following in the footsteps of our European neighbors who have chosen to mandate a large proportion of their total compensation package. The results: few new business starts, no job growth, a sluggish GNP, high structural unemployment, and long periods of joblessness for displaced workers. The charts in our appendices, prepared by the NFIB Foundation, illustrate several of these factors:

> Those nations with the highest proportion of benefits to wages -- Italy, Germany, France and Europe as a whole -- also have the lowest levels of employment growth. (Charts 1 & 2)
>
> These same nations exhibit higher levels of unemployment and longer durations of unemployment. (Charts 3 & 4)
>
> Morever, in looking at female labor participation rates, it would appear that increasing fringe benefits (as a percentage of wages) has no effect. (Chart 5)
>
> American companies have been boosting their productivity by adding more capital and more labor, but European companies have been utilizing capital instead of labor. Labor market rigidities, wage and benefit mandates are resulting in excessive substitutions of capital for labor in Europe. (Chart 6)

Further illustration can be found in the remarks of one small California manufacturer:

> "Please recognize that many small manufacturers like ourselves employ largely unskilled entry level people. Our fringe benefits approximate 30% of our wages. We employee 25 people and we compete with wages of $2.50 per day 150 miles south of Mexico, $0.50 - $0.75 per day in the Philippines and similar total daily labor costs in other pacific basin countries. Programs such as this adds to the growing inability of small companies to compete in the world marketplace.

The Proposed Benefits May be Unpaid to the Employee, But There Are Costs

Because the leave periods stipulated in these bills are unpaid, a casual analysis would lead one to believe these bills are cost free. Nothing could be further from the truth.

Assuming jobs are interchangeable and other employees can fill in, time and a half for a $6.45/hour employee (1982 average wage in firms with less than 100 employees) would require $2,474 in additional wages alone for an 18-week parental leave and $3,573 for a 26-week medical leave. These benefits are not free even when unpaid. Yet the legislation requires recommendations be made to the Congress on implementing paid leave!

The proposed bills require employers to continue the existing benefit arrangements of employees on leave. We know from our 1985 Employer Benefit Survey that two-thirds of the small employers providing health coverage pay the entire premium cost -- the median cost being $75-95 per month for single employees; $125 per month for an employee with dependents. These expenses would also have to be carried by the employer for an employee on leave.

Consider, too, the double-whammy of "COBRA" if the employee on leave decides to quit after the 18- or 26-week period -- the employer must then extend coverage for another four months. One member explains:

> We recently had a young woman who requested three-months' maternity leave which we granted. In order to hold her job, we employed a temporary employment service to fill this job as secretary/receptionist. During the leave, we paid all benefits. At the end of the leave time, the individual informed us she had decided not to return to the labor force. In other words, we went through a period of inefficiency and delay in being able to seek and train a replacement (as well as a monetary outlay to cover fringe benefits) for an employee who did not return.

The number one problem for small firms is the cost of health insurance according to the 1985 NFIB Small Business Problems and Priorities Survey. Mandating these benefits with continued coverage during the leave period acts as a disincentive for employers to offer health insurance.

For those firms that can afford hiring temporaries, there are the grave consequences of UI. The majority of small employers already pay more in payroll taxes than any other form of taxation. As we stated earlier, using the 18-week parental leave period proposed in H.R. 925, in all but 14 states the temporary employee would be eligible for unemployment compensation when let go by the employer (see attached chart).

Unemployment costs are not small change for employers. One NFIB member has calculated the additional assessment for UI to her firm as $10,670 (see attached).

Mr. Chairman, in our view there is no appropriate size standard for exempting small businesses.

All businesses are not the same, and very real economic conditions often dictate the availability and length of any leave period or benefit. Mandatory benefits increase fixed costs. Small businesses already operating on thin margins could be forced to eliminate jobs and may well be driven out of business.

David Birch, the noted MIT economist, will be publishing a new book in the Fall in which he discusses the detrimental "hour glass effect" of Canada. Government-imposed thresholds have made medium-size firms extinct. The Canadian economy must operate with only very large and small firms. Birch is credited for his work in discerning the special dynamism of small firms in creating jobs. His "hour glass effect" is illustrated by these comments of a small business owner:

> If this bill is passed, I am sure that each employer will be extremely cautious when making a decision to hire a person who might fall within these categories. Likewise, I can see that small businesses who now have 14 employees would think twice before hiring any additional help which would automatically place them under jurisdiction of this pending legislation.

With regard to an appropriate period of leave time, again, we believe there is no set period which suits every circumstance.

An appropriate leave time will hinge on many factors -- the employee's medical condition, the needs of the business, the availability of a replacement or other trained employees.

We would argue, Mr. Chairman, that the real question is whether this type of government mandate is needed at all. It's acknowledged that nearly all large businesses provide for these types of leaves. And NFIB field survey data indicate 72% of small firms allow time off without loss of benefits. Of the 16.3% "no" responses (11.9% were "no reply"), more than half were from firms with fewer than five employees. The United States' voluntary, flexible benefit system has worked well in this area.

While parental leaves are excellent benefits, they are only one option among many. For instance, small firms are more flexible and more likely to offer part-time jobs that allow women to work and still be at home with their children.

The costs of mandated parental leaves will limit the availability of other benefits. Employers and employees are best able to structure benefit packages; Congressional dictates ignore individual needs and differences.

Congress should not attempt to manage the nation's businesses from Washington. It hasn't worked in Europe, and it won't work here. I encourage the Committee to defend the flexible, voluntary benefit system and oppose the benefit mandates of S. 249.

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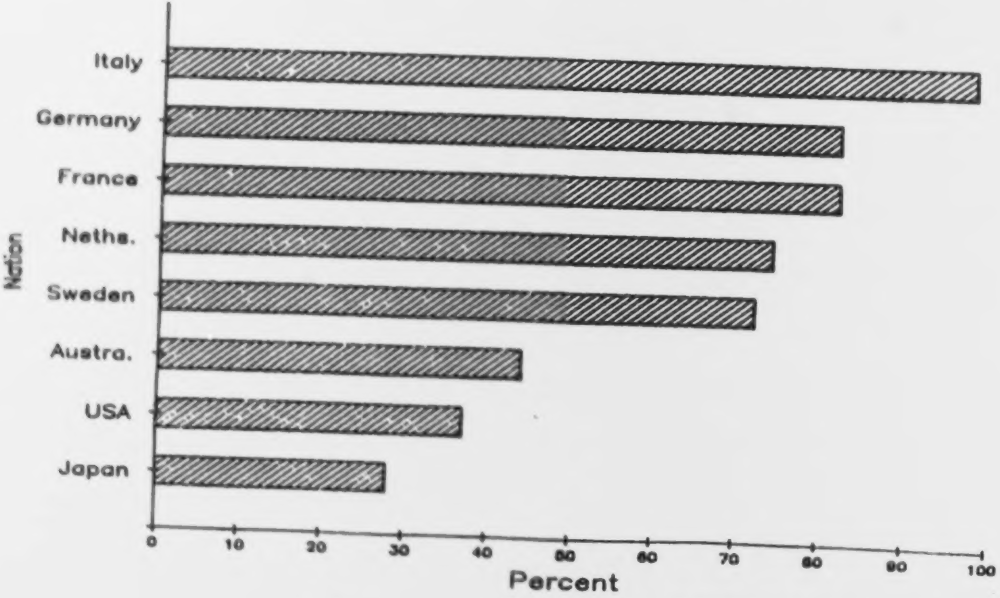
CHART 1

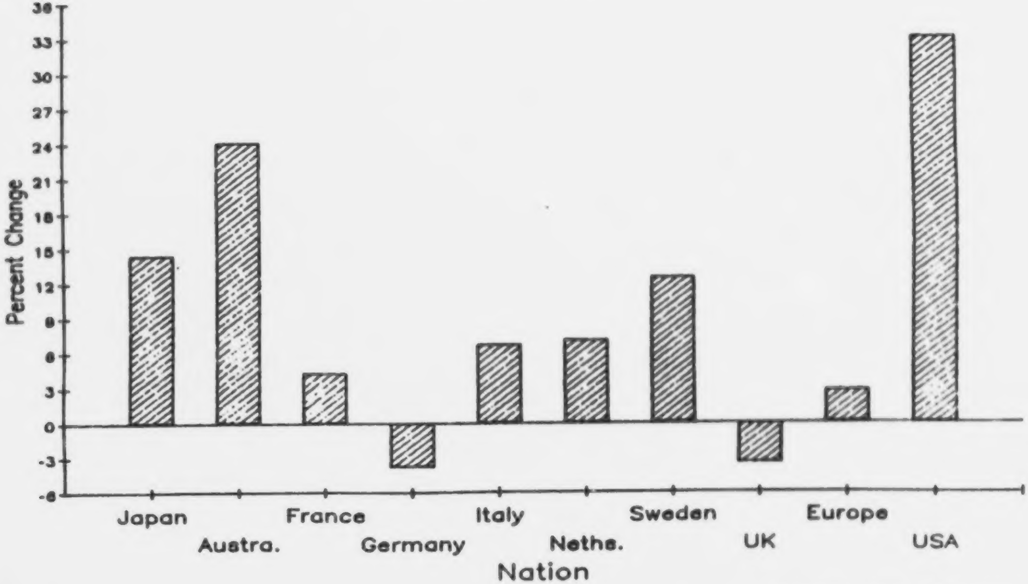
FRINGE BENEFITS AS A PERCENTAGE OF WAGES IN MANUFACTURING INDUSTRIES BY SELECTED NATION: 1985



Source: Cologne Institute of the German Economy

CHART 2

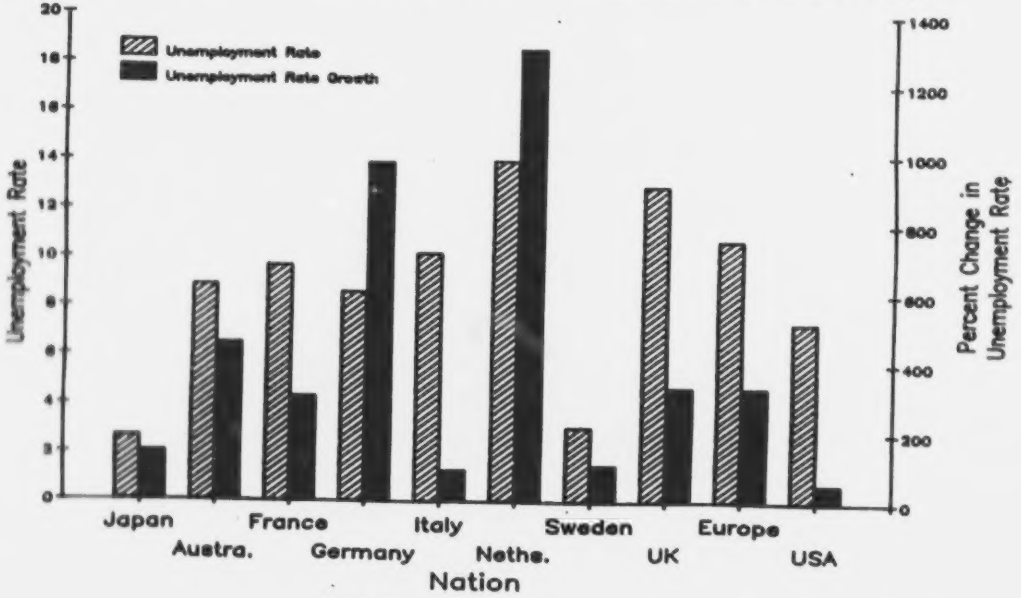
PERCENT EMPLOYMENT GROWTH IN SELECTED NATIONS: 1969-1984



Source: from OECD data

CHART 3

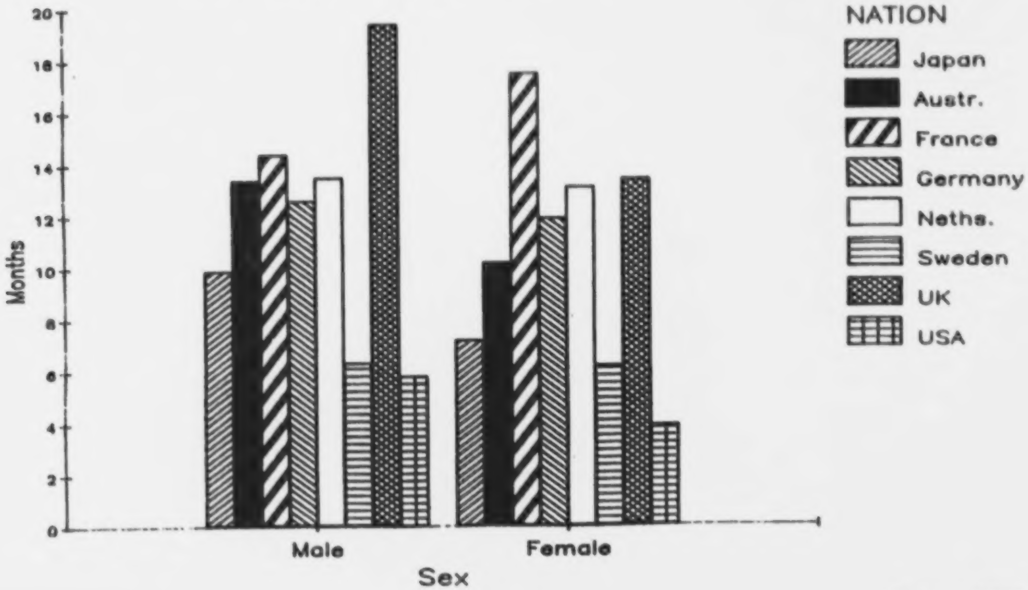
UNEMPLOYMENT RATE (1984) AND PERCENT GROWTH IN UNEMPLOYMENT RATE (1970 - 1984) BY SELECTED NATION



Source: OECD

CHART 4

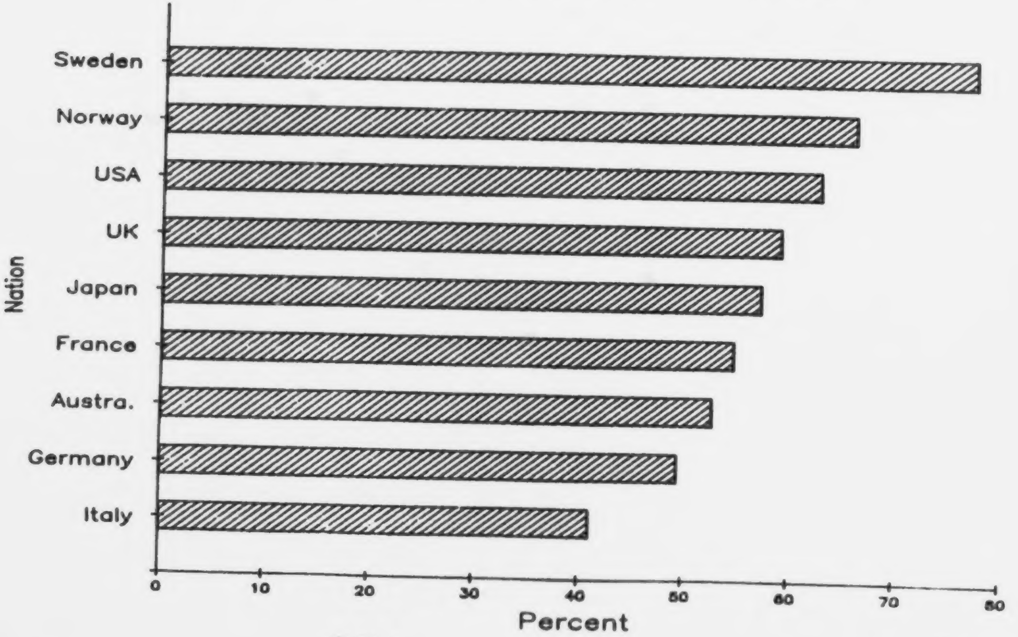
MEAN AVERAGE DURATION OF UNEMPLOYMENT IN PROGRESS BY SELECTED NATION - 1984



Source: OECD

CHART 5

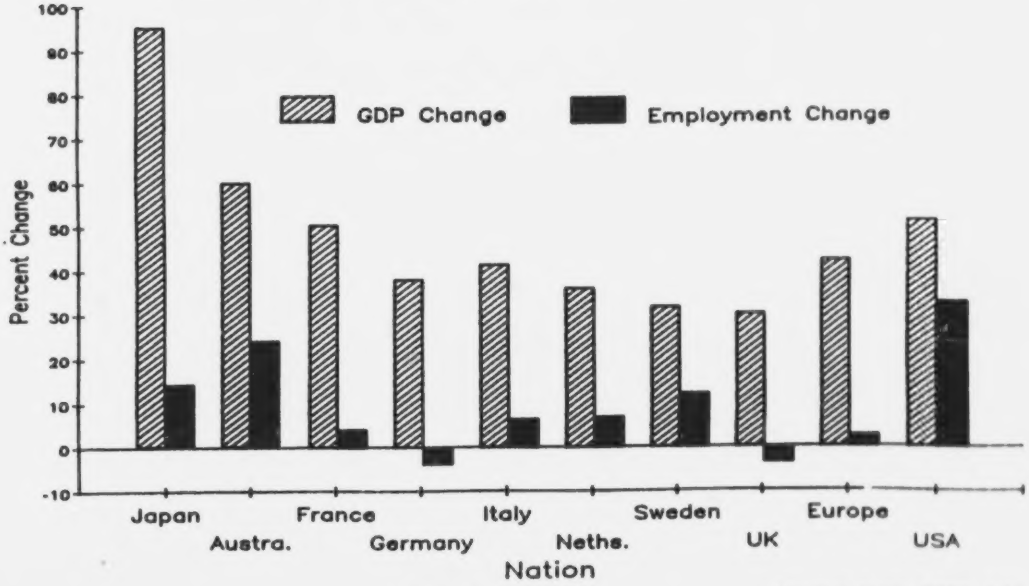
FEMALE LABOR PARTICIPATION RATES BY SELECTED NATION — 1984



Source: OECD

CHART 6

GROWTH IN GDP (1970 - 1985) AND EMPLOYMENT (1969 - 1984) BY SELECTED NATIONS



Source: from OECD data

Background on Parental Leave/UI Costs

In the current debate over parental leave legislation, little attention has been paid to the impact such legislation would have on the states' unemployment insurance programs. Small firms are particularly sensitive to changes in their labor costs. The majority of small firms pay more in payroll taxes than in any other form of taxation.

The parental leave proposals dictate a period of leave with a provision for reinstatement of the employee to the same or a comparable employment position. If the employer hires a replacement for the employee on parental leave, then dismisses that replacement upon return of the permanent employee, this obviously has consequences in terms of the U.I. program.

Unless the temporary employee has U.I. coverage through an employment agency, the U.I. coverage is the responsibility of the individual employer. Should an employer dismiss the temporary employee, that employer would, under state U.I. laws, become a "base period" employer for purposes of U.C. benefit charges.

Even if, while substituting for someone taking parental leave, the temporary employee did not acquire enough wage credits to qualify for U.C. benefits, he or she may have accumulated additional wage credits from other employment sufficient to meet qualifying requirements.

Let us assume (following the provisions of the proposed federal legislation, H.R. 925) that a temporary employee works 18 weeks, 40 hours per week at the federal minimum wage of $3.35 per hour (18 X 40 X $3.35 = $2,412 in wage credits). If we further assume that the temporary employee in question had no other wage credits from previous employment, he or she would still qualify for U.I. benefits in most states (see enclosed table).

In assessing the impact of parental leave on U.I., it is also important to note how each particular state allocates benefit charges to employers. Employees' benefits can be based on wages paid by more than one employer. Charges to employers are usually allocated in one of three ways: (1) proportionally amongst, the employee's past employers; (2) to the employee's most recent employer; or (3) in inverse order of employment, with the most recent employer paying first. Particularly with methods 2 and 3, temporary employees could prove much more costly than their mere wages would indicate because of the employer's greater potential for being assessed U.I. charges.

POTENTIAL IMPACT OF PARENTAL LEAVE ON UNEMPLOYMENT COMPENSATION

State	Would temporary employee qualify for Unemployment Insurance?*	Basis on Which employers are charged
Alabama	yes	proportional
Alaska	yes	
Arizona	yes	proportional
Arkansas	yes	proportional
California	yes	proportional
Colorado	yes	inverse order of employment
Connecticut	yes	proportional
Delaware	yes	proportional
Dist. of Col.	yes	proportional
Florida	no	proportional
Georgia	yes	proportional
Hawaii	yes	proportional
Idaho	yes	employer who paid largest amount of wages
Illinois	yes	**
Indiana	no	inverse order
Iowa	yes	inverse order
Kansas	yes	proportional
Kentucky	yes	most recent 30 day employer
Louisiana		proportional
Maine	yes	most recent
Maryland	yes	employer who paid 75% of wages; if none, then proportional charge
Massachusetts	yes	inverse order
Michigan	no	inverse order
Minnesota	yes	proportional
Mississippi	yes	proportional
Missouri	yes	proportional
Montana	no	who paid largest amount of wages
Nebraska	yes	inverse order
Nevada	yes	employer who paid 75% of wages; if none, then proportional
New Hampshire	no	most recent***

POTENTIAL IMPACT OF PARENTAL LEAVE ON UNEMPLOYMENT COMPENSATION

State	Would temporary employee qualify for Unemployment Insurance?*	Basis on Which employers are charged
Alabama	yes	proportional
Alaska	yes	
Arizona	yes	proportional
Arkansas	yes	proportional
California	yes	proportional
Colorado	yes	inverse order of employment
Connecticut	yes	proportional
Delaware	yes	proportional
Dist. of Col.	yes	proportional
Florida	no	proportional
Georgia	yes	proportional
Hawaii	yes	proportional
Idaho	yes	employer who paid largest amount of wages
Illinois	yes	**
Indiana	no	inverse order
Iowa	yes	inverse order
Kansas	yes	proportional
Kentucky	yes	most recent 30 day employer
Louisiana		proportional
Maine	yes	most recent
Maryland	yes	employer who paid 75% of wages; if none, then proportional charge
Massachusetts	yes	inverse order
Michigan	no	inverse order
Minnesota	yes	proportional
Mississippi	yes	proportional
Missouri	yes	proportional
Montana	no	who paid largest amount of wages
Nebraska	yes	inverse order
Nevada	yes	employer who paid 75% of wages; if none, then proportional
New Hampshire	no	most recent***

New Jersey	no	inverse order
New Mexico	yes	proportional
New York	no	inverse order
North Carolina	yes	proportional
North Dakota	no	proportional
Ohio	no	inverse order
Oklahoma	no	proportional
Oregon	yes	proportional
Pennsylvania	yes	proportional
Puerto Rico	yes	
Rhode Island	no	proportional
South Carolina	yes	most recent
South Dakota	yes	inverse order
Tennessee	yes	proportional
Texas	yes	proportional
Utah	yes	proportional
Vermont	no	most recent
Virginia	no	most recent
Virgin Islands	yes	
Washington	yes	proportional
West Virginia	yes	proportional
Wisconsin	no	inverse order
Wyoming	yes	proportional

* 18 weeks x 40 hours x $3.35

** Illinois: 1/26 of total base period wages to a maximum of 1/26 of $6,000 per week of benefits paid; North Carolina: amount charged to an employer shall be multiplied by 12%.

*** New Hampshire: benefits paid following discharge for voluntary quit, discharge for misconduct connected with the work or refusal of suitable work will be charged to employer from whom the claimant separated after serving the disqualification.

Source: UBA, Inc.: 600 Maryland Avenue, SW; Suite #603; Washington, D.C. 20024. UBA is part of the National Federation for Unemployment Compensation and Workers Compensation. UBA is engaged in research and educational activities involving current and emerging issues in unemployment and workers' compensation.

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I. EMPLOYEE X $7.00/HR x 40 HRS x 18 WEEKS	II. EMPLOYEE ON PARENTAL LEAVE FOR 18 WEEKS	III. COST OF REMAINING EMPLOYEES OVERTIME	IV. TEMPORARY NEW EMPLOYEE	DESCRIPTION
5040.00	---------------	10800.00	5040.00	Wages
360.36	---------------	772.20	360.36	FICA
40.32	---------------	97.20	40.32	SUTA
60.48	---------------	71.40	60.48	FUTA
660.00	660.00	------------	660.00	Insurance
186.76	186.76*	186.76*	186.76	Vacation
136.10	---------------	204.15	136.10	Prof. Shar.
50.40	---------------	108.00	50.40	State Train.
6534.32	846.76	12,239.71	6534.22**	Total

* This would be accrued to the employee since state law requires that this type of leave be treated when the employee returns as though they had never been off work. Secondly, our remaining employees always accrue additional time off for hours worked in excess of forty hours per week.

** This solution would also accrue additional expenses incurred by this employee losing his/her job through no fault of their own. (See "A" below)

I.	Cost of employee producing for an 18-week period.	$ 6,534.32	no impact
II.	Cost of employee on leave.	$ 846.76	
III.	Cost of employee on leave with other employees performing missing employees functions. ($846.76 + $12,239.71)	$ 13,086.47	+ 7,585.67
IV.	Cost of employee on leave with outside employee performing missing employees functions. ($846.76 + $6,534.22)	$ 7,480.98	+ 1,793.42

A. California employment law would also create a severe hardship in the case of an outside employee being utilized for the interim 18 week period. If said employee were terminated at the end of this period because the first employee has been guaranteed their job, state law would interpret that the second employee had lost his position through no fault of his own. This would then affect the employer in that an additional assessment would be placed against the employer's state unemployment fund ranging from .2% to 1.2% of their gross payroll to a maximum of $21,900 per employee per year for a three-year period. This would in my case, represent an additional charge of $10,670.40 plus the $1,793.42 indicated above or a total of 12,463.82 or a subsidy of the missing employee to the tune of $3,114.45 per month. This is NOT A NON-IMPACTING proposed piece of legislation. My husband, with 33 employees would be thus penalized to the tune of $20,503.42 or have subsidized his employee an average of $5,125.84 per month.

Senator DODD. Ms. Wright.

STATEMENT OF DARICE WRIGHT, ARIEL CAPITAL MANAGEMENT, INC., CHICAGO, IL

Ms. WRIGHT. I am a wife, mother-to-be, and the Director of Marketing and Client Services for an investment advisory firm, Ariel Capital Management, Inc. In the entire scheme of things, Ariel Capital is a small investment advisory firm with assets under management of approximately $225 million, in a field where the top ten investment advisory firms manage assets in excess of $540 billion. Ariel Capital employs seven full-time, salaried employees and one hourly, full-time employee. Among our employees, there are five women and three men.

While spearheaded by our president, John W. Rogers, we have collectively built an organization that has grown from one with no assets under management and no clients to one which, as I just said, manages $225 million with an additional $80 million due us for about 40 institutional clients.

As a small organization, each individual is an integral element in both the growth and stability of our firm. Turnover is both dreaded and discouraged. In its earlier fledgling stages, many of us accepted positions with the firm not because of the initial compensation but rather because of the opportunities for growth that seemed possible. Over the years, as the firm has indeed grown and the employees have become more experienced, our salary levels have risen to those more comparable with our counterparts at other firms of similar size. Furthermore, to discourage the aforementioned turnover, we are in the process of implementing additional benefits programs and packages, including an Employee Stock Option Plan, a Defined Contribution Plan, and discretionary bonuses. Also, because nearly 63 percent of our work force is female, we have recently been required to address the issue and establish a policy of maternity leave.

Our policy provides for partially paid maternity leave for up to four months, which allows the mother flexibility in meeting not just her financial needs but, also, allows her the time needed for bonding with her new child and for choosing supplemental child care thoughtfully. The policy we have implemented not only solves the problems of the individual employee's need to work and the small corporation's need to avoid the costly disruption of turnover, but it also serves to strengthen the loyalty of such employees because we know that commensurate with looking at the bottom line, the firm is sensitive to our personal needs as well and has come up with a far-thinking, long-term solution that makes both economical and social sense.

As a result of this policy, my commitment, allegiance, and dedication to the firm could not be greater. While it gives me a sense of relief that I will be able to sincerely embrace my role as a new mother, it also inspires me to ensure that the duties I perform for Ariel Capital are appropriately delegated in my absence or sufficiently handled by me while at home.

In turn, the policy also says to me, "Yes, in all of your various roles, you are indeed valuable to this firm and to society as a whole."

Also, on a personal note, I would like to say that this legislation that you are proposing is important to me. It is important because I think it is consistent with American ideology and further strengthens the work ethic that has made America what it is today, for it is only in America that a person like me, who was born and raised in the North Lawndale Community of Chicago, a community which has been the subject of numerous studies and essays surrounding the dire conditions of ghetto life, could through hard work and the opportunities provided by my government rise above those dire situations and be the first in my family to get a college degree, establish a well-paying career in the coveted field of investments and buy a nice home.

In my view, it would be a tragedy if in America both its political and business leaders were to bury their heads in the sand when faced with the complexities of childrearing for families where the adults must work outside the home. My mother and father both worked so that I could have a better life than they had, and I have. My husband and I are both working so that we may provide opportunities and build a solid economic base for our children, grandchildren, and great grandchildren. In my opinion, this is truly the trickle down theory in action.

The proposed legislation, if passed, would further ensure that I remain gainfully employed and continue to be a productive, taxpaying citizen. It also ensures that future generations are more self-sufficient and less dependent on government for their survival and prosperity.

Thank you.

Senator DODD. Excellent testimony, Darice.

Mr. Dehmlow.

STATEMENT OF LOUIS DEHMLOW, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS, CHICAGO, IL

Mr. DEHMLOW. I thank you very much for allowing me to speak before you, Senator.

Senator DODD. Thank you.

Mr. DEHMLOW. The things I am supposed to say are that I am the Chairman of the Board of the National Association of Wholesaler-Distributors, which represents one of the largest professional groups in the United States; like, $1.4 trillion of sales moved through merchant wholesalers. That is SIC 51.61. 45,000 members and 124 trade associations. I have been on the board four years. I have been elected to the board and am now the Chairman of the Board.

Senator DODD. Congratulations.

Mr. DEHMLOW. I write lots of things rather than try to talk to people. I have been putting editorials into our trade journal. Those are available, but I'm not going to try to relate everything I have been writing for the last several months and, perhaps, since 1960.

Because NAW is the founding member of the Concerned Alliance for Responsible Employees, which, as a coalition is rather new to me, I am representing them, and I can experience the Washington view, and that is that these are corporations and trade associations—I guess even unions, but any combination of organizations that agree upon specific issues. It is not the customary bloc of power that is represented, perhaps, by people like just big business, but combinations of small entrepreneurial, as well as publicly held companies.

But more than that, I represent something that you and I share, and that is positions of leadership. My first position of leadership after school was that I was elected president of a very small, privately held, company. There were three owners, none of which was me, but I was elected president because one of them was my mother and she was a widow. But the other two men had been my father's partners and they chose to have me at my twenty-fifth birthday become president of a company that had about two dozen people, about $1 million sales. This was 1952. Today we have 194 employees. But the most important thing is that our customers have grown from about 200 to about 4,000. So whatever we are doing seems to be right. We are now selling $100 million worth of stuff. Each sale that we make is an election by someone out there in our market place that will choose between our products and our services, rather than someone else's. Therefore, as I was an elected leader of our company and have only maintained my job by being sure that we were continually profitable, continually successful, which is only a measure of how you are managing, that we continue to exist. But my point is a point of leadership.

I don't believe in managing people. I believe that people should manage themselves and, as a consequence, I started very early defining to myself, after a chemical engineering degree—about all I learned to seek the higher law. It allows you to explain a lot of particulars, if you understand the higher laws. So I asked myself: What is the purpose of life? I read a great deal. I am not going through the religious poems I have read, or the philosophic, psychiatric, or psychological, but I came to the realization that the purpose of life is to develop the best that is within yourself. The purpose of your life is to develop within each individual's self. Now, who else can develop it but that self? That is why I eschew the word "management". I use the word "leadership". Now, it was said by the founder of Christianity, in answer to the question, "What is the great commandment?" after he said, "To love God, with all thy heart, with all thy mind, and all thy soul," he went on past that and answered, "And to love thy neighbor as thyself." He did not say instead of thyself. He said, "as thyself". Well, then I thought, "How am I going to help other people help themselves and work out their own problems unless I grant them the freedoms that I desire," regardless of my position or title or anything else?" How can I cause them to want to not have confidence in me but to have confidence in themselves? You know, once this chemical engineer, with a military background, incidentally, through Korea and during World War II as a student in a military school, figured that out as a higher law, I found that here now I can look at people in such a way that I could cause them to want to follow these things that I need to have help doing. A business is nothing more than a group of people who have come together because one guy's got more work than he possibly can do by himself. And in this free market in the United States, the marvelous part about it is that you are free to come out and compete with however you want, be it legal, with certain things that government should do. But the entrepreneurial urge that we talk about in most of the business publications for the last several years, so that we can be competitive, is nothing more than the fact of recognition of the divine quality of each individual. I have never hired a black. I have never hired a Hispanic. I have never hired anybody except for their own being. I have had people from the City of Chicago when they first had the Equal Opportunity Commission come into my office three times in one year and all I had to do was look at the people who are working with us. They are people who have come from India. Incidentally, Madu took off for four months because her mother was sick, and it is a long trip to India. So we managed to have someone else take over her job. Rick just got back—not back. He finally got his wife back from the Philippines. He married her five months ago, but he couldn't get her into the United States for some reason. So she hit Chicago during colder weather than she is used to down at the Equator. But we have a number of people. I once had an American Eskimo working for me. I shouldn't say "for me" but working with me.

Now, what I'm saying is this: One of the ladies previously said that we should put forth the kind of legislation that will help us like the other industrial nations on earth. The other great industrial nation on earth has a constitution, as do we. Our constitution is 200 years old, yet it is the newest constitution. It is the newest document that has ever been perceived, because it was an evolution of thought that began in 1215. Now, how about that? The 13th Century, on a battlefield in England called Runnemede, when the noblemen who were helping King John said, "Wait a minute. You've got divine rights, but you don't let us have any of them. We're not going to fight this battle unless you let us have some of those rights." That was the first step as far as British jurisprudence was concerned for this was acknowledged: The British Bill of Rights, 1689. It took years later. Writs of Habesscorpus. Terribly important. I mean, they had to go before some kind of a judge before they could throw somebody in jail or take away their job or their life. But the Constitution of the United States followed a document called "The Declaration of Independence". "The Declaration of Independence", I just want to read one part: "The King of Great Britain has a history of repeated injuries and user patients in having the direct establishment of an absolute tyranny over these states." And then they list, I think, 27 points that they thought were these user patients. One of them was: "And he has erected a multitude of new offices and sent hither swarms of officers to harass our people and to eat out our substance."

Then the Constitution of the United States, so different from the constitution of this other leading nation. The other leading nation's constitution provides rights to free speech, freedom of religion, free enterprise, for women to work, for people to go into old age, and all of these things, more so. There are 13, not 10 items, in their Bill of Rights, and there is a great difference because ours, even though it isn't as complete as theirs is, ours says, "The Congress will not interfere with the exercise of the individual's rights." The other says, "The government will ensure that you have these rights." I refer to the 1947's, the last time I saw the revision by the People's Republic, by the Union of Soviet Socialist Republics. Many other nations on earth are not like ours and they do not have the productivity that we have. We have added 20 million jobs in the last 10 years. The whole world has gone down. Why? Well, let's go back to Runnemede and then carry it back through the British Bill of Rights and then take it to the Declaration of Independence and then the Constitution which we are celebrating this year. I have written two editorials, incidentally, on the Constitution, called "We the People". I'm a businessman with an engineering background, trained—oh, incidentally, my dad drove a truck. That's how he started. He had part of an education, not the whole college degree—but, anyhow, I disclaim—one thing or another—judging people by what they seem to be called. I refuse to accept that. And I have a group of people who work with me and they have, every one of them, I swear, their own way of wanting to work. My own secretary takes every Friday off and has now five weeks vacation. She has been with us 25 years. We don't have turnover. I was a member of the Board of Directors of the Employer's Association of Chicago. Do you know what? They had a higher turnover in an office of seven people and the people who were supposed to be the guiding employment group in Chicago, and we had none. I mean practically none. Call it 3%.

But my point is this, sir. You raised the question: What is the cost of this legislation? And I am not going to give you recitations that everyone has quite adequately given, which are the costs measured in dollars. No, I am going to give it to you in the cost by principle, of what causes a person to want to have self-esteem or, as was said by the founder of Christianity, "You can love your neighbor as thyself," but that, first, must mean that every individual employee—I don't care who it is in our company—must have self-esteem and self-respect. And I think that I can do a better job of that right-on, person-to-person, with these things to lead me, than to have a government to manage me.

Senator DODD. Thank you very much.

[The prepared statement of Mr. Dehmlow follows:]

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

STATEMENT OF

Louis H.T. Dehmlow, President
Great Lakes Terminal and Transport Company
Chicago, Illinois
and
Chairman of the Board, National Association
of Wholesaler-Distributors

BEFORE THE

Labor and Human Resources Subcommittee
on Children, Family, Drugs and Alcoholism
U.S. Senate

ON

S.249, "THE PARENTAL AND MEDICAL LEAVE ACT
OF 1987
September 14, 1987

1725 K Street N.W. Suite 710 • Washington D.C. 20006 • 202 872 0885 • FAX 202 785-0586

SUMMARY

The National Association of Wholesaler-Distributors (NAW), is a federation of 124 national, 50 state and regional associations and 3,000 individual wholesale-distribution companies.

NAW is also a founding member of and serves as Executive Secretariat for the Concerned Alliance of Responsible Employers (C.A.R.E.) a coalition of 160 corporate and trade associations actively seeking to preserve the rights of employers and employees to determine which benefits are best suited to their individual and mutual needs.

NAW believes that, for both practical and policy reasons, S.249, the Parental and Medical Leave Act, would make bad law. Employers now voluntarily offer a variety of employee benefits including parental leave which effectively meet the needs of U.S. workers. S.249 would preempt employers' rights and abilities to continue to respond to those needs and effectively manage their businesses.

When an employee benefit, like parental leave, is statutorily mandated, the ability to respond on an evolving basis is circumscribed. The majority of the nation's workforce is aging, their needs are changing and private employers should maintain the flexibility to respond to those evolving needs.

S.249 would also inflict unnecessary administrative burdens on employers in terms of federal compliance. Additionally, it would jeopardize the safe and profitable operation of certain industrries.

Mandated benefits would clearly increase the cost of doing business, thus jeopardizing U.S. competitiveness in today's global economy.

Lastly, mandated leave fails to take into account the true value of each individual's contribution to the success of a business. Each and every employee adds value to an enterprise, and legislation such as S.249 grossly underestimates that fact by assuming employees can easily be replaced.

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I. INTRODUCTION

My name is Louis Dehmlow and I am President of the Great Lakes Terminal and Transport Company in Chicago, Illinois. My company is a distributor of chemical products which operates in 25 states and employes 180 people.

I am also Chairman of the Board of the National Association of Wholesaler-Distributors and it is in that capacity that I appear today.

II. THE NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS AND THE WHOLESALE DISTRIBUTION INDUSTRY

The National Association of Wholesaler-Distributors is a federation of 124 national (list attached) and 50 state and regional trade associations, as well as 3,000 individual wholesale distribution companies. All told, NAW's membership collectively includes some 45,000 companies and 150,000 places of business across the country.

NAW's membership ranges from very small to very large businesses and is responsible for over 60 percent of the $1.4 trillion of merchandise which flows through wholesale channels annually. NAW members also employ a comparable percentage, or 3 million, of the

5 million Americans who work in the wholesale distribution trade.

III. NAW AND ITS MEMBERS HAVE A SUBSTANTIAL INTEREST IN MANDATED BENEFIT LEGISLATION

Wholesale distribution businesses are labor-intensive and employee wages and benefits constitute a significant portion of a wholesaler-distributor's cost of doing business. As a result, individual wholesale distribution businesses and the National Association of Wholesaler-Distributors on behalf of its members have an on-going and substantial interest in any federal legislation which would mandate the benefit package provided by employers to their employees.

Given its substantial interest in any legislation mandating employee benefits, NAW co-founded the Concerned Alliance of Responsible Employers (C.A.R.E.). NAW also serves as Executive Secretariat of C.A.R.E., which was formed in December, 1986 by major trade associations and corporations actively seeking to preserve the rights of employers and employees to determine which benefits are best suited to their individual and mutual needs.

CARE's growing membership currently is comprised of approximately 160 corporate and trade association members which directly represent the manufacturing and service sectors, wholesaler-distributors, the food and restaurant industry, personnel administrators and hundreds of thousands of small, mid-size, and large firms across the country. In addition to representing NAW today, I am also appearing on behalf of CARE.

For its part, the National Association of Wholesaler-Distributors is unalterably opposed to the Parental and Medical Leave Act of 1987 for reasons grounded in policy and practicality which are detailed below.

IV. BOTH POLICY AND PRACTICAL CONSIDERATIONS SUGGEST THAT THE PARENTAL AND MEDICAL LEAVE ACT WOULD MAKE BAD LAW

A. The Act Would Preempt Employer Flexibility in Tailoring Appropriate Benefit Packages

The Parental and Medical Leave Act of 1987, S.249, which you introduced Mr. Chairman, requires that all firms employing 15 or more people provide; among other things:

- o 18 weeks unpaid parental leave within any 24-month period for the birth or adoption of a child;
- o 18 weeks unpaid leave for the care of an ill child;
- o 26 weeks unpaid medical leave within any 12 month period;

- continuation of health insurance during the leave-taker's absence; and

- restoration of the employee to the same or a comparable position upon his or her return.

The bill also establishes a commission to recommend legislation for mandatory paid leave in the future.

Wholesaler-distributors, like other businesses, already offer a variety of employee benefits. The types and feasibility of such benefits differ for each employer based on a variety of factors such as the type of industry, size and skill of the workforce, individual workforce needs, competing standards in the industry and the ability to assume costs.

For example, my own company provides all of its employees:

- Medical Insurance -- 100% of hospitalization coverage and 80% of a doctor's care. The 20% paid by the employee for care by a doctor does not exceed $700.00. The coverage for my employees is paid for entirely by my company.

- Short-term Disability -- My company pays a stipend of up to $225 per week for 13 weeks to those employees who are unable to work as a result of a short-term disability. We also have a long-term disability program for those disabled for 6 months or longer.

- Sick Leave -- My company's sick leave policy permits employees to "bank" their unused sick days to be used in full in the event of a long-term illness or maternity situation. In addition, we provide six weeks unpaid maternity leave. Therefore, an employee who must take time for childbirth and who has accrued five weeks sick leave would be entitled to those five weeks at full salary and an additional six weeks unpaid maternity leave.

- Other benefits -- My company also provides dental insurance, life insurance, and paid vacations, as well as a profit sharing and retirement plan.

This benefit package costs the company 22 percent of wages for each employee. Hence, an employee who earns $30,000 a year receives and additional $6,600 worth of benefits.

Not one of the benefits described above has been provided as a result of a federal or state law or regulation. My company, and others in our industry, provide such benefits because it makes sound business sense for us to do so.

As a manager, I have decided to offer these benefits in response to the needs of my own employees. The Parental and Medical Leave Act, if enacted, would preempt my right and ability, as well as that of other employers, to do so. In short, it would undermine our capacity to efficiently manage our businesses.

In doing so, it ignores that all businesses are not alike and that all employees do not have identical needs. The framework of employee benefits policy has always been flexibility. Yet, this legislation robs the current structure of a large measure of flexibility.

B. Mandated Parental Leave Fails to Address the Demographic Changes in the Workforce

As noted above, the kinds of benefits employers offer have resulted from management decisions based on employee needs and, critically, other marketplace factors. These needs have evolved in accordance with the demography of the workforce.

As more workers with family responsibilities have entered the workforce, many companies have implemented programs designed to assist workers in meeting their dual work-family responsibilities.

Among such programs are: (1) alternative work schedules including flextime, voluntarily reduced workweeks, job-sharing and part-time employment; (2) child and dependent care programs such as on-site or near-site day care, day care subsidies and child care vouchers; (3) employee assistance programs; (4) flexible benefit plans, cafeteria-style benefit plans which allow workers to choose those benefits most suited to their particular needs; (5)

family leave policies; and (6) information and referral programs.

However, the nation's workforce is an aging one. The post-war baby boom generation, which constitutes the major sector of our population, may, in a relatively short period of time, no longer require these types of benefits at current levels to assist them in meeting family responsibilities. In other words, the prevalent needs of today's workforce are likely to change dramatically and employers will want to -- and should -- respond to those needs on an evolving basis.

When a benefit -- like parental leave -- is statutorily mandated, the ability to respond on an evolving basis is circumscribed. Congress can, or course, weigh in later and change the law. The question then becomes whether Congress, as a matter of fact, and relative efficiency, is the party best able to make such decisions. NAW submits that the answer is a resounding "No."

C. S.249 Would Inflict Additional, Unnecessary Paperwork and Administrative Burdens

S.249 requires that parental leave be scheduled so as not to "disrupt unduly" the operations of the employer. An employee's interpretation of what constitutes undue disruption may differ dramatically from the employer's interpretation.

Employers who fail to comply with the requirements of the Act would be subject to administrative and judicial action. In order to protect themselves from these actions, employers would be required to keep detailed records of their business activities and their employees' role in those activities.

Moreover, employers would be faced with an increase in their legal fees, not only for defense against possible judicial actions, but for advice on how to comply with the requirements of the law.

D. Specific Impact of Mandated Leave on Wholesaler-Distributors

A critical component of the wholesale distribution industry is its transportation department. For example, the Great Lakes Terminal and Transport Company employs a division of truck drivers who transport chemicals from the warehouses to a variety of locations throughout the country. Our truck drivers are well trained and heavily insured since they are responsible for delivery of chemicals which, placed in the wrong hands, would be hazardous to the public health.

Replacement of those truck drivers with temporary employees for 18 or 26 weeks would not only jeopardize the efficient delivery of inventory, but the public health as well.

Another crucial elemet of a wholesaler-distributors' operation is its salesforce. My own salespeople undergo a six-month training period before assuming full responsibility for their jobs. An extended leave period would have a serious effect on the productivity of a sales operation, which is the bread-and-butter of a wholesaler-distributor.

E. Mandated Benefits Would Impair U.S. Competitiveness

Given the current debate over the ability of American companies to compete with those of our trading partners, mention needs to be made of this bill's impact on domestic business. Common sense suggests that a company becomes less profitable and, thus, less competitive when its costs rise. S.249 would undoubtedly add to the costs of doing business in this country, thereby further jeopardizing our nation's competitive stature.

In short, inflicting additional costs onto American businesses runs completely counter to uplifting America's competitiveness.

F. Mandated Leave Fails to Consider the Value of Individual Employees

In considering this legislation, it is important to look through the good intentions associated with it and understand the principals at stake. This bill assumes that businesses can readily replace people for an eighteen or twenty-six week period. Mr. Chairman, employees are not simply interchangeable functionaries or cogs on a machine. The irreplaceable value of people in an enterprise is in the fact that they constantly grow. On any accounting ledger, machines depreciate. But human beings, as they grow in knowledge and skill, appreciate in value.

A woman in our company, who recently retired after 42 years, worked with us since she was 17. In fact, she met the man who would become her husband when he visited our plant as a truck driver for another company. When they decided to have children, we agreed on a schedule that allowed her to do her office work between 3 and 11 a.m. Her husband stayed with the children until she got home, then he went to work. That arrangement was designed for one individual's particular case. How could such cooperative covering of work be codified and enforced by the government? And yet I could site many other special arrangements involving salary, benefits, training and transfers.

It boggles the mind to imagine what would happen if bureaucrats started legislating such arrangements as one uniform policy. We have individual differences deserving individual attention. Companies do not always succeed in providing that individual attention as they should. And doing so remains one of the great challenges to leaders in business now that "megatrends" such as decentralization and computerization enable us to make work much more individualized and personal. But the ability of business to provide greater employee benefits and greater employee freedom will suffer if government is allowed to steadily encroach on private relationships in private enterprise.

V. CONCLUSION

Flexibility is the key to the success of private employers' benefits policy. It is essential that this flexibility remain in the future so that employers can continue to respond to the changing needs of their workforce.

Mandated benefits are not the answer. Requirements such as those contained in S.249 will only increase the cost of doing business, reduce U.S. productivity and further jeopardize our nation's competitiveness posture.

Senator DODD. Ms. Leonard.

STATEMENT OF PEGGY LEONARD, NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS, GENEVA, IL

Ms. LEONARD. My name is Peggy Leonard. I am the President-Elect of the National Association of Women Business Owners. I have been a small business owner in Illinois for over 14 years, 11 of those years with a company that employed as many as 25 people, so I have significant experience with this issue.

Like Cynthia, I was a delegate to the White House Conference on Small Business in August of last year. I was elected from the State of Illinois.

The National Association of Women Business Owners is a trade association representing over 3,000 women-owned businesses across the country. We have chapters in 40 cities. Many of our members are mothers, as well as business owners, so that we are extremely interested in this issue. We appreciate the opportunity to speak with you.

I have submitted written testimony and I am going to attempt to summarize my testimony for you in the next few minutes.

Senator DODD. Thank you very much.

Ms. LEONARD. Senator Dodd, I am sure you are aware that small business provides most of the first employment opportunities for the nations' workers. Small firms are able to employ the unskilled when the wage-benefit package which must be offered is relatively low. A relatively low wage-benefit package compensates the employer for the training which must be extended to the unskilled worker. We are concerned that, if an artificial, non-market sensitive wage-benefit package is put in place, this may adversely affect economic conditions and, to be specific, result in situations which will adversely affect the unskilled worker.

The National Association of Women Business Owners believes that successful implementation of policies concerning parental leave will happen only if those policies take into account the needs of both sides of the equation; in other words, if we consider as a group not only the needs of the employee-parent but look as well at the needs of the employer

We think that business will support policies which enhance the quality of life of their employees, but they will support those policies only so long as they take into effect the need of the employer/owner. Conversely, if legislation is passed which is not sensitive to business' needs, many small businesses will have no choice but to do everything in their power to get around that legislation. Businesses will very likely avoid hiring those people for whom it is most likely that benefits packages, such as those proposed by this legislation, are most probable to be needed.

We think that any solution must include incentives for both sides. We believe that legislation, if passed, must include such things as credits to employers against Unemployment Compensation contributions in return for leaves granted.

The private sector, as you, yourself, have mentioned, Senator Dodd, is already putting into place solutions to this problem, such things as flex-time and part-time work, benefit menu plans which allow employees to "bank" some benefits in exchange for others. Other possibilities are temporary disability insurance, which we would be able to use to fund the leave and, of course, improved child care options for both sick and healthy children.

In Florida, the Dade County School Board recently put into effect a policy which allows employers to operate on-premise kindergartens. Since July of this year, when the policy went into effect, the Dade County School Board has been beseiged with applications from employers in the area who wish to participate in the plan. Those employers who have already been selected for participation are saying that they anticipate that having an on-site kindergarten will severely reduce absenteeism in their companies, and they have said that this reduction in employee absenteeism will compensate them for starting and running kindergartens in their plants. Businesses do, and will continue to compete with each other to attract and keep good employees.

As more employees become parents and more parents enter the work force, businesses are going to find it in their best interests to accommodate this trend.

We urge you to work with both sides of the equation and take into account the needs of both the worker/parent and, also, those of the employer/owner.

I can tell you from my personal experiences as President-Elect of the National Association of Women Business Owners that this concept and this issue is more than theoretical. I travel across the country for our association and just this past Friday, we produced in the State of Iowa a Public Affairs Day for our association which was attended by our representatives from across the country and I can tell you that in that format, as each presidential campaign took the microphone, the first question that our business owners asked of that campaign was: "What are your policies going to be in the labor area?" My people, the people that I represent, the small business owner, are severely concerned about the effects on their business and they are looking at this issue, this legislation, and other legislation, which is currently before Congress as life and death in terms of their business situations. I have people come up to me and say things like, "Peggy, I am seriously thinking about ways that I could hire fewer people or how I can operate my business with no employees at all. I am so concerned about how this is going to affect my bottom line."

Businesses in this country must not be discouraged from continuing or we are not going to have jobs to offer our parents who are employees. One of our previous speakers said that he thought that the issue revolved around whether or not we value children in our society and as I was listening to him it occurred to me that, although I certainly agree with him and I think that this issue is essentially tied up with how much we value children in our society and our association certainly feels that as a strong need, I, also, would put the question on the floor as to how much we value having a society at all and how much we value America and America's historical position. Someone else, one of your other speakers, said that it is good to work and it is also good to have a family, and I would add a third, which is that it is also good to run a business and America has counted on our running businesses.

I would like to just summarize for you the position of the National Association of Women Business Owners on parental leave. We feel that every parent should be able to take time off work to have or adopt children or care for seriously sick children without the fear of losing his, or her job and without facing discrimination. Any government requirements in this area must be limited to very basic benefits, such as six weeks unpaid leave, with the right to return to the job. Such basic benefits, if confined to the above, could be extended to businesses with as few as six employees. Congress and the states must identify mechanisms to spread the cost and effective incentives to encourage private industry to expand the benefits that they offer. And Congress must not exempt itself from the requirements that it imposes on private employers.

I would close just by saying to you, Senator, that our association feels that our country is in danger. We face enormous challenges in this country in the immediate future and the only way that we are going to be able to meet these challenges is, if we meet them together. Any short-term or easy solution which focuses on one group, while not considering other groups which are involved, is going to keep us from succeeding and succeeding as a country.

Thank you.

Senator DODD. Thank you very much for your testimony.

[The prepared statement of Ms. Leonard follows:]

STATEMENT
OF
PEGGY LEONARD
NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS
before the
Subcommittee on Children, Families, Drugs and Alcoholism
Committee on Labor and Human Resources
United States Senate
SEPTEMBER 14, 1987

My name is Peggy Leonard. I am the President-Elect of the National Association of Women Business Owners. I have been a small business owner in Illinois for over 14 years. The National Association of Women Business Owners is a trade association representing more than 3000 women-owned businesses across the country, with active chapters in 40 cities. Many of our members are mothers as well as business owners, so that we feel that we have a unique perspective on this issue. We appreciate the opportunity to speak to you.

As I am sure you are aware, small business provides most of the first employment opportunities for the nations' workers. Small firms are able to employ the unskilled when the wage-benefit package must be offered is relatively low, thus compensating the employer for the cost of training. If an artificial, non-market sensitive benefits threshold is imposed, the result is very likely to be a change in employment patterns adversely affecting the unskilled worker.

The National Association of Women Business Owners believes that successful implementation of the concept of parental leave will occur only if the policy enacted addresses the needs both of the employee/parent and of the business owner.

The National Association of Women Business Owners feels that it is critical that the effects on market conditions be evaluated before any mandate is put in place. If a mandate is unavoidable, we feel that six weeks unpaid leave with the right to return to a job, coupled with offsets compensating the employer is the most stringent that the business community can endure.

The National Association of Women Business Owners's position on parental leave can be summarized as follows:

* NAWBO believes that every parent should be able to take time off work to have or adopt children or care for seriously sick children without fear of losing his or her job and without facing discrimination.
* Congress and the states must identify mechanisms to spread the cost, and effective incentives which encourage private industry to expand the benefits they offer.
* Any government requirements in this area should be limited to very basic benefits such a six weeks unpaid leave for the above events with the right to return to the job.
* Such basic benefits, if confined to the above, could be extended to businesses with as few as six employees.
* Congress must not exempt itself from requirements it imposes on private employers.

The National Association of Women Business Owners is dedicated to strengthening the dynamic fiber of our entrepreneurial economic system while enhancing the quality of life in this country. We believe that business will support policies which contribute to the well-being of family members as long as those policies are constructed with business' interests in mind.

Conversely, if incentives for business are not considered, and legislation is passed, many small businesses will have no choice but to do everything in their power to defeat such legislation. To the extent possible, they will avoid hiring those persons with the greatest probability of requiring and mandated leave. It will then become undesirable to employ women of childbearing age.

As a country, we need to explore incentive-based plans which cause business to want to extend leave. Legislation, should it be inevitable, must implement such approaches as employer credits against unemployment compensation contributions in return for leaves granted. Successful solutions in the private sector must be studied and extended. Many companies already offer flex-time and part-time work and benefit menu plans which allow employees to "bank" some benefits in exchange for others. Other solutions include the use of temporary disability insurance to fund leave, and improved child care options for both sick and healthy children.

In Florida, the Dade County School Board recently started a program which allows businesses to operate on-premise kindergartens. Since the program's inception in July of this year, the Board has been deluged with requests from businesses. Employers who have been approved for the program anticipate it will significantly reduce absenteeism, thus compensating for the cost of operation.

The realities of the new American workplace dictate that employers consider such alternatives if they are to attract and keep talented parents and parents-to-be. Businesses do and will continue to compete with each other to attract and keep good employees. As more employees become parents, and more parents enter the workforce, businesses will find it in their best interests to accommodate the trend.

We urge you to work with both sides of the equation to develop a workable solution. While taking into account the needs of the worker- parent, examine also the needs of the business owner-employer, who must not be discouraged from continuing his or her enterprise if we are to continue creating new jobs.

Senator **Dodd**. You have all been very, very helpful here.

Just for purposes of information, because I think you all may find it interesting as people involved in business, I have done a little assessment of what goes on in other countries, especiallyin Western Europe. It is kind of interesting. These are our prime competitors. It is one thing to talk about the Third World or Developing Countries but, since many of them aren't really competitive with us although some are becoming more so, it is rather interesting to see what goes on in other parts of the world. It will give you an idea of what we are up against.

In West Germany, there is paid leave for 12 to 14 weeks with 100 percent of earnings. There is also the possibility beyond that 14 weeks, if the need arises.

In Japan, it is 12 to 14 weeks of paid leave. What is the percentage of earnings statistics? All right. The salary is paid leave, but the earnings are about 66 percent of salary, of what salary would be during that period of time.

In Hong kong, there is around 12 weeks of paid leave and the pay up as high as 99 percent of earnings.

I'll come back to questions, but I thought you would like to hear some of these statistics.

Here are some numbers on Paid maternity leave. In Asia, 54 percent of all countries have it. In Europe, 100 percent. Canada has it as well.

Interestingly, many of these countries have had it for some time.

I'll get to you in a second, but I thought you would find it interesting to hear what some of these other nations are doing in related areas.

Ms. Grantz, you pointed out, and I thought it was interesting that in 81 years you have never had a pregnant employee. What the hell is going on in your business over there? I found that somewhat startling. I hope it had nothing to do with the paint.

Ms. **Grantz**. They are very cautious.

Senator **Dodd**. They are busy people.

I'm curious because you have never really had the issue come up. It has not been an issue that you have been confronted with, although I presume you have seen the data that we have all seen with the tremendous change in the workplace. The paint production business, has not been traditionally an employment sought out by women. But I presume you heard our doctor from the University of Chicago say earlier that 17 of the 22 interns studying pediatrics are women. That is a dramatic change from five, ten, fifteen, or twenty years ago, when there would have been, maybe, one or two women out of the entire group of interns. So things are changing and women's employment is coming along. That's one of the reasons, I think, that we are talking about it because we do have this change ongoing.

You pointed out, and I thought it was wonderful, that when people are sick, and you have had employees that have had a problem, you provide time for them, that is your business does. And you have found it to be worthwhile to hold onto that employee, a good investment for the company to give that employee an opportunity to get better and then come back to their job. Am I—I don't want to put words in your mouth, but——

Ms. **Grantz**. May I give an example?

Senator **Dodd**. Sure.

Ms. **Grantz**. I should say it is an old company. We have some employees who have been there for 40 years, so we don't have a great turnover.

Now, for example, in the lab in Rockford, the lab is the center of this industry. We have six chemists. Now, one, who is in his fifties, had cancer about six years ago and he was over-radiated. Now he is an invalid.

Senator **Dodd**. How many employees do you have there?

Ms. **Grantz**. We have 87 employees, company-wide. Paint manufacture is neither capital nor labor intensive, our biggest expense being in our raw materials and government regulation. It is true. It really is.

Anyway, he was out for 10 months because of recovering from the cancer, but it was really the effects of the radiation which are permanent. My husband kept his job for him, so he is back. He has been back ever since, but he does not work full time. He is treated as a full-time employee but, in fact, he works not full time.

Now, really, you know, I think to myself, if we must adopt a strict policy at Rockford Coatings that is going to apply to absolutely every instance without deviation, then probably we would not be able to hold a position open for a 10-month period because that would establish a new precedent. You know, we are small. We can only do so much, but we do go, first of all, for the seriously ill employee and the older employee. Beyond that, it is really about all we can accommodate, you know, and I think that is a fairly objective view of it.

Senator **Dodd**. But what if you were confronted with a situation where an employee, a woman, had a child who was ill and needed time? In listening to you and what you had to say in describing the previous situation, I assume you would give that employee leave to take care of her child. I bet you probably know the first names of all the 87 people who work for you.

Ms. **Grantz**. Sure, and all their children, too.

Senator **Dodd**. The point earlier that I tried to make to you was that frankly, if this country were made up of just small businesses like yours, family-run operations, we wouldn't be here this morning. Because I happen to believe in those family business situations people take care of their family. But what I'm talking about and what this legislation is really designed to deal with is the larger business operations where owners don't know the workers. You can't know all the workers, in a sense. I mean, they punch that card. They are, hopefully, good workers and the like, but they don't know their supervisors. They don't know the owner. They don't know anyone in management except in a limited way. And these employees are confronted with fact situations and problems which, if you were to know about or if another CEO were to know about them, I don't have any doubt about what you would do. In nine cases out of ten, the CEO would help take care of their employees, because that is the way people are. The problem is that they don't, and they can't. Like that fellow, Mr. Patrick, who testified this morning. The owner of his firm doesn't know him. I mean, he is just a guy working at the plant. And this bill is really designed in that limited-fact situation: The sick child, the newly born, an adopted child, and those situations where you don't know the employees. You don't know the families of the employees. You don't know the children. That worker ought to be able to have the same opportunity to take care of his family as you would or would give to the worker you know personally. That is all I am trying to say.

Ms. **Grantz**. May I just make an observation, you know, for what it is worth? I mean, we are all here to, you know, give and receive information.

It is just my personal feeling that, if this law passes, there is going to be enormous pressure to make it leaves with pay because in your initial remarks, Senator, you talked about the impact, let's say, on the single parent. The single parent can't take extended leaves without a pay check, one would presume. And you referred to the idea that this was in some ways called the "Yuppie Bill".

In our company, the people out on the shop floor—it is a very low-skilled unpleasant working situation. That's why women—many women, of course, are in the manufacturing area, but this is not the kind of manufacturing area that women are interested in and some of these people are very low skilled and their pay is accordingly low. These people, sooner or later, would sneer at a bill which they would come to realize favors those people in the lab who are higher paid and can take their vacation. So it seems to me that there would be legitimate pressure. If this is the direction the country wishes to take that we mandate these leaves, then I think we are running into a moral dilemma of how can we support legislation that appears to favor one——

Senator **Dodd**. Well, let me answer that. Let me try and answer that question.

Ms. **Grantz**. If I could just complete that.

Senator **Dodd**. Yes.

Ms. **Grantz**. So if there is any validity to my thinking that there will be pressure put on to make these leaves with pay, then we have a new option. The man at Rockford Coatings, who currently does not want unpaid parental leaves would love a paid parental leave. You know, they love it. I have to be frank and say that we have some parents, some men, who are not even custodial parents but, according to the bill, they would qualify for the leave. I am not trying to—I'm just saying that the attitude of the employee will change and the leaves will be exercised and then we are talking cost that for a small manufacturing company would not be viable.

But we have to also consider how this is going to affect our tax, you know. The teachers who are currently on strike in Chicago, and the whole bit. I mean, it is a big picture and there are lots of things to examine.

Senator **Dodd**. Let me address, if I can, Ms. Grantz, the three fact situations we talked about: birth, adoption and serious illness. People are going to have children and people are going to adopt them. They know for some time that they are going to have an event occur and so the idea of planning to put aside money and prepare for that added financial burden is something they do. Obviously, illness is something people can't prepare for. But the point is, in those situations, if you ask most employees—granted, sure, I presume they would like to be paid. Who wouldn't? But in terms of the cost, that employee is already sitting there and asking himself: "Should I be on the job or should I be at that hospital?" I don't know if you were here to listen to some of those physicians talking this morning how they go in those rooms every day and see these parents sitting there with kids who are chronically ill. These parents are off work or not working and most people are not earning big salaries. We have had dozens and dozens and dozens of parents come as witnesses before the Subcommittee who hardly qualify as what I would call "Yuppies". But given the choice, they would prefer to be with that sick child. They feel that strongly about it.

So in two of the three fact-situations, it is not a surprise, and the parents do make preparations in advance. And obviously there would be a financial burden associated with a paid leave, but on that particular point, I would just say to you that I think it is a specious argument that it would create great divisions within the labor force. Obviously, older employees are more likely to get problems with just normal physical condition than younger ones. I don't sense great resentment among younger employees because different employees, because they are older, are more inclined to take more sick leave or need to drain more of their medical benefits and so forth.

Ms. **Grantz**. If I may just make one other observation.

I think that from what I have heard and read that many people who are proponents of this legislation are looking down the road to an agenda that will follow, that will involve an employer relationship in providing child care. In fact, we have even been approached about that in Rockford, you know, at Rockford Coatings. It wouldn't be a good place to have a child care facility, you know, since we are a high-hazard industry. But, in any case, there is an agenda that I think will follow. Our company is too small for this. I am not trying to suggest that our company needs to exist in the future. You know, maybe that is just part-and-parcel of the way the world evolves, but I will say that there will be consequences. And in Rockford, where we have lost so many manufacturing jobs, and these are the jobs that are held by men, and as the service industry, and the Aetna's and the Signa's and all these big companies where you have a lot of people performing the same kind of work, where it lends itself better to temporary in-flows and outflows. I say to myself, "Are we going to wake up in the Year 2000 and find that women are the major formal employees in this country, bearing an enormous benefit package and chained to their jobs because they can't leave and their husbands are out trying to pick up random pieces of work?" because the manufacturers, I think I can say with certainty, at least the small manufacturers, don't have the options. I will say it is not just this bill, but it is things like—

Senator **Dodd**. Your basic problem, Ms. Grantz, is that you don't like the federal government mandating any benefits?

Ms. **Grantz**. Well, no, because—

Senator **Dodd**. That's not new. That has been a long-standing—

Ms. **Grantz**. That's right, but it is still true.

Senator **Dodd**. Yes. So was minimum wage, you know, and hours, and child labor laws. These were all opposed historically, and when the government stepped in, this was going to destroy American industry and business. And, if we required certain things to occur, this was just going to bring us to our knees, lose our competitive edge, and the like. Hasn't that been sort of the historic position?

Ms. **Grantz**. But I think the small entrepreneur has been a very important asset in this country and it is my understanding that when you mentioned the other countries, No. 1, they don't have the same role in terms of defense and that kind of thing, and I think it is not fair to compare economies.

Senator **Dodd**. Europe has a rather substantial role in defense. 100 percent of the other countries now in the NATO Alliance have parental leave policies.

Ms. **Grantz**. I don't want to get into an area I am not familiar with, but I think that probably comparisons between these various countries needs some more thought, at least on my part.

But the entrepreneur in this country has been considered important and certainly the dramatic reduction in unemployment in this country can be attributed in large measure to the growth of the small entrepreneurial situation. You know, we are in a large world market. Who knows? Maybe Rockford Coatings does not belong there. Maybe the small is going out. But I can tell you in Rockford that we are seeing a lot of companies that are being sold now to European firms and I think we are going to wake up and find it sort of a different scene in a few years. So, as long as we all agree that that is the scene we want. But—

Senator **Dodd**. I don't think anyone does, and we are going to keep Rockford. I presume it is going to be around for years with someone as articulate as you are.

Ms. **Grantz**. You make great paint.

Senator **Dodd**. Mr. O'Keefe, you, apparently, don't think you are about to go out of business?

Mr. **O'Keefe**. No, not so.

Senator **Dodd**. How is your business doing? How is it doing in terms of competitiveness?

Mr. **O'Keefe**. Our business is doing well, Senator. We have a construction program going on now. We will be adding another building late this year and we are up about 7 percent in sales.

Senator **Dodd**. How long have you had a parental leave policy?

Mr. **O'Keefe**. The parental leave policy, listening to some of the emotions and feelings of people here, seems like such policies never existed, but ours goes way back. Where we started to formalize it, I would say it might have been more about 15 years ago and then we have even revised it in the last year. So it goes back quite a bit as a family-owned company, we are probably more sensitive to its need.

Senator **Dodd**. And have you found that you have maintained your competitive edge, along with having this parental leave policy? It has not destroyed your competitive capacity?

Mr. **O'Keefe**. It certainly has not. No. I really believe we have a highly productive work force who truly believes that our organization is extremely concerned for them.

Senator **Dodd**. This is what I was getting at earlier. I always find it somewhat interesting to take what the people who have had these policies say about what it is like and compose it to those who talk about what it might be like. It is interesting that you found that.

You have been with the firm 40 years?

Mr. O'KEEFE. 41 years.

Senator DODD. Then you have seen the changes over the years?

Mr. O'KEEFE. That's correct. I was just thinking that there are currently about 1,800 employees and there is less than 1/2 of 1 percent currently involved in a leave situation and we have about 40 percent females and 60 percent males. We are not an older organization in the sense of the average age. I am just in sympathy with the people who are worried about this, but I think there is an overreaction as to what it really is. It is an unpaid leave.

Senator DODD. I too think that a lot of people will return to work quickly. The question of economics, obviously, is important and you can't rule it out. I mean, the question of unpaid leave is how much time can you afford to take? But I find with an awful lot of people that they want to get back to work. It isn't just the economics. I mean, they want to be back on the job, in terms of just their work load, their sense of responsibility and the like. I realize there are exceptions to that, but I find that they are a part of that.

Mr. O'KEEFE. That's right.

Senator DODD. On the question of these other countries and the competitive edge that is talked about a great deal, don't you find it somewhat interesting that some of our chief competitors, in fact, some that are unfortunately beating our brains out for a variety of reasons—have parental leave policies and have had them for some time across the board? Isn't that worth taking note of?

Mr. O'KEEFE. It certainly is.

Senator DODD. Thank you very much, Mr. O'Keefe, for your testimony.

Ruby, let me ask you the same thing. When I went down those numbers, your hand shot up. I could see you were just dying to jump right in when I was giving them.

Ms. CARTWRIGHT. Yes, I missed a point when you were talking about the parental leave in the foreign countries. Is that for both male and female paid maternity leave, parental leave?

Senator DODD. No, it is mostly maternity leave. In Europe, it is parental but in some of the Asian countries, it is maternity. I am sorry if I said parental. If I said that, I correct myself.

Ms. CARTWRIGHT. Well, that's what I wanted clarification on, whether you were talking about that they were giving both their female and their male leaves during this time.

Senator DODD. In the European communities, it is parental. In the Asian communities, it is maternity.

Ms. CARTWRIGHT. May I say, Senator, that there are additional business owners who are not able to be here today and I have their written testimony here. May I present those to you, please?

Senator DODD. Certainly, you can. I will put as much of it as possible in the record.

What are your comments on that? You have valued employees. These employees mean a lot to you, more than just the question of replacing them with someone else. You talked about a new hire or a temporary hire being a problem but, obviously, I presume it is more advantageous to you to be able to retain the employee who has been with you some time.

Ms. CARTWRIGHT. Absolutely.

Senator **Dodd**. It is far less costly than to hire a new person and train a new person altogether. So, in terms of the temporary hire, while there are some dangers involved in that, it is in the long-term interest of the business to be able to take back the sick employee who has to be out for a time. You want to keep that job available for that person?

Ms. **Cartwright**. Absolutely. For an ill employee, whether it is male or female, they are paid 60 percent of their earnings for the first 90 days by the company. They get a pay check every week, 60 percent of gross. Then at the end of the 90 days it is turned over to the insurance company. And if it is an unfortunate kind of thing that is going to last, they would have the 60 percent income until Age 65.

For the maternity leave, there are six weeks of paid benefits. And, of course, if the mother is disabled at the end of that six-week period, the 60 percent would continue until her doctor said that she was physically able to come back to work.

But when we talk about these leaves, both male and female, we certainly recognize that our ladies need the time but when we talk about a man taking leave because there is a new baby in the household, I cannot accept that from an employer's point of view, simply because we lose touch with what is going on. Not only have we had the expense of training someone to fill in for this person and related costs, if we did not go through an employment agency——

Senator **Dodd**. This is what you are anticipating would be the problem?

Ms. **Cartwright**. Well, it's a fact, if you don't have your people there, you cannot expect people to pick up the work that another individual or two people are doing. You have to have replacement.

Senator **Dodd**. But you don't have a parental leave policy at your business?

Ms. **Cartwright**. For the female employee, yes, sir.

Senator **Dodd**. Maternity leave?

Ms. **Cartwright**. Yes.

Senator **Dodd**. Go ahead.

Ms. **Cartwright**. What I'm saying is for the male employee who just because they have a new baby in the household wants time with the new baby. That's great, but they lose touch with what is going on in the day-to-day operation and there is a time period when that employee comes back in our business that we would need to retain this replacement person while they learn what is going on; maybe a week, because he doesn't have to be trained in some of these other areas.

Senator **Dodd**. You have found this to be the case in maternity leave?

Ms. **Cartwright**. Oh, yes. Absolutely.

Senator **Dodd**. You find it is costing the company substantially to hire temporaries to replace those who are out on maternity leave?

Ms. **Cartwright**. Well, I gave you numbers and I indicated to you that we, right now, have one person that we hired the replacement two months prior, so you are going to have the two months prior and the six weeks following. The other one we hired three months—June, July, August—three and a half months early, and we are going to have six months following. So you can see that there is, yes, indeed, a cost.

Senator **Dodd**. But, now, have you found your maternity leave program to be helpful to the business?

Ms. **Cartwright**. Absolutely, but this is for the female employee that I'm talking about.

Senator **Dodd**. Yes. I am just saying it has been helpful in terms of productivity. Do you think your workers are working better today because you have a maternity leave policy?

Ms. **Cartwright**. I don't think they are working any better, but it is certainly something that they appreciate. But when you say, "Are they working better?" I can't answer yes or no, but I would say that it is not a big factor. I don't think the fringes in those areas is what keeps the employees. I really don't.

Senator **Dodd**. Ms. Cartwright, thank you again. Your testimony was excellent. I promise you we are going to get you a copy of a GAO report on the cost that I mentioned earlier of the proposal.

Ms. Wright, I think all of us here were struck by your testimony, how hard your parents worked and the opportunities that today are available to you that less than a generation ago probably would not have been available. An awful lot of those advantages came about, as you point out, because someone in government said, "We're just not going to wait." Unfortunately, we would like it to be that way. But the arguments were made, "We'll do it on our own. It is better when we do it on our own." And I agree it is better when things are done that way, but had we waited for that to occur, we would be still waiting.

Ms. **Wright**. That's right.

Senator **Dodd**. And because someone said, "We're not going to wait any longer," and insisted upon mandating some things. It is regrettable it had to be mandated, but it nonetheless made a difference in an awful lot of people's lives, and I suspect you are one of them.

Ms. **Wright**. That's right.

Senator **Dodd**. How many people are with your firm?

Ms. **Wright**. Eight.

Senator **Dodd**. Your firm would be exempted from coverage under this, unless we extended—

Ms. **Wright**. Which given the argument, people would say, "It would be even more costly for our firm," I guess.

Senator **Dodd**. Yes. Well, Peggy Leonard's point is the same. We have had testimony from the Women Business Owners groups in the past and I always find it interesting that they disagree with me over the overall length of time and disagree with me, also, on the number of employees. And, as they point out, I think it is true that there is a higher percentage of women employed by small business, percentage wise, than by large businesses. So the idea they have of lowering the small business exemption so that firms with fewer employees will be covered, is an interesting one. But I think the small business community's complaint is that it is tough enough with the exemption at 15. I think, although we are going to do some things in terms of geographic area requirements along the lines of the Minnesota law, so there is not too much of a burden. But when you get down to an operation that is four or five or six people, then I think you really put a tremendous amount of pressure on that really small operation.

Ms. **Wright**. One thing that she said was that it would give small businesses an incentive not to hire these employees, and I disagree with that because, as she said, they tend to pay lower wages at smaller businesses and, thus, the pool of workers that they have to pull from have to be acceptable to those smaller wages, and we are still in the period where women make less than men and I don't think it is any accident that, of the eight employees at my firm, five of them are women. Initially, when we started, as I said, we didn't all start because the initial compensation was so great and I think, given our level of skills and education, that a man would have been far more reluctant to take the same positions that we did. So it is important, for smaller businesses to offer these kinds of benefits in order to remain competitive because they are offering smaller wages.

Senator **Dodd**. Yes. Well I mentioned, too, and I don't know if you heard it, that there is statistical evidence available from those states, that have had maternity leave, comparing employment opportunities for women in those states before and after passage of those laws. In fact, a very strong argument was made in every one of those states where maternity leave legislation was adopted, that were that legislation to be adopted, it would result in significant discrimination against women in employment opportunities. The data available from all those states, show that, in fact, women's employment opportunities have at least kept pace, if not exceeded, with what has gone on in other states which were without any mandated maternity leave policies. How do you answer that, Peggy?

Ms. **Leonard**. The National Association of Women Business Owners has supported the concept of parental, and I emphasize "parental" not maternity leave.

Senator **Dodd**. I know you do, yes.

Ms. **Leonard**. And we have done this since the beginning of the discussion of the issue in this country.

Senator **Dodd**. I know you have and I appreciate it.

Ms. **Leonard**. And our severe concern is with the impact on the fiber of the country's economic system. In other words, there exists already severe impediments to going into business and we have that it is just critical that we altogether analyze, you know: What makes a person take the risk to start a business? What is there about that person that makes them go out and do the things, so that, you know, today I open my doors, tomorrow I have one employee, a year from now, hopefully, I will have three, and then another year, and the snowball keeps rolling? What encourages those people and what, conversely, are the discouraging factors? How high can you go with discouraging factors before those discouraging factors really significantly affect the entry into entrepreneuralism, the entry into that segment, of these potential people? You know, we are together in our concern about the issue. We are together in terms of feeling that our employees must have lives of full value, as I mentioned earlier. I mean, I have had several companies. One of my companies had 25 people. I had a woman who had a severely handicapped son. She worked a flexible schedule. We saw her son at work quite often. It was wonderful for all of us. She was a great employee and I, as an employer, have in my entire history of being an employer in Illinois always extended whatever I could for my employees because my employees have extended whatever they could to me.

My concern is that, as an officer of NAWBO and what I am hearing from my membership, "Peggy, I don't know how I can live with this. What is this going to mean when I go to hire somebody?" What kinds of expectations, speaking again in general, what kinds of broad expectations does this set up in the minds of employees in this country? What kind of mentality are we encouraging? How are we going to pay for this as a country?

You know, we are as anxious as you, as your office, and everyone else who has spoken here this morning, to find a way to pay for this because we feel that it is critical. But our concern is that the answer may be arrived at too quickly and in the interim period we have significant—

Senator **Dodd**. I hear what you are saying, but I come back to one point. And I'm going to sound like a broken record on this, but I keep coming back to this point. I find that many of the very people who are most concerned about parental leave legislation are business people who are doing it already. They already have in place parental leave policies. It may be on an ad hoc basis. They do it on that basis because they know their employees, but they are doing it already. I mean, Peggy you just said you would do it, and I think that is what I have difficulty understanding. If you are doing it already, then you find out that it works for you. What we are concerned about are the larger employment situations where owners don't know who their employees are. In those instances you know your secretary's name. But you don't know that person down on that line who is sitting there knocking out piecemeal work. You don't know. You are never going to meet them, and one worker, she's got a kid who is sick. Now, the contract says, "You don't get leave." So she goes to her supervisor. The supervisor says, "You read the contract. That's the deal." What do we do in that fact-situation? And that is where the bulk of employees are in this country.

Ms. **Leonard**. We fought, as you well know, very hard at the White House Conference to get wording added to Resolution No. 2 which came out of that conference. The resolution, as it stood on the floor and brought before the attendees to that conference, said "no mandated benefits". NAWBO, the National Association of Women Business Owners, was the association which was successful in working through that issue area through the entire conference to add wording, and I would just like to read it to you. It is only, you know, one sentence.

Senator **Dodd**. Yes.

Ms. **Leonard**. "Business supports creative efforts in the private sector to identify new and voluntary approaches to enable working parents to fulfill their job and family responsibilities," and the key word, I would say, is "voluntary". The Dade County Program looks like it is going to be a blockbuster. It is voluntary. It looks like it is going to be real successful. It is voluntary, you know, and that is what our people feel. I'm working my brains out to make this country go and to put us back ahead in the global situation. Don't keep me from doing that.

Senator **Dodd**. No. I wouldn't try. But we have over six million employers in this country and less than 2,000 of them do anything in the area of child care at all—anything.

Ms. **Leonard**. That statistic shocks me. I think that I, as an employer——

Senator **Dodd**. It does me, too.

Ms. Leonard [continuing]. Am probably not on your books.

Senator **Dodd**. Well, I'll bet you are. And the fact is those are the facts.

Ms. **Leonard**. Because we surveyed our membership and our statistics were much higher in the area of what our people——

Senator **Dodd**.. That may be with the organization, but——

I need to get with Mr. Dehmlow. He has been trying to get my attention here.

Mr. **Dehmlow**. No, but you are using a point that you say is like a broken record. I would like to point up that the problems of we who run lean businesses have people who are moving really without great identity of specialization, but everyone knowing a great deal about all of the work that has to be done. But what is the burden is the burden of having to deal with people from the federal bureaucracy. There is a bureaucracy in the large corporations. They have people that fill out forms. There are people who will go to hearings. There are people who will do these various things. So it isn't the impersonality, I think, as the large corporation versus the small corporation. It is the same kind of personality between the government—if I may say, you people pass the laws. It is those who enforce the laws. And it is that kind of a compounding that you have. The more laws, the more we have to spend time responding to them. The large corporations have bureaucracy built into them. They have people sitting around answering reports all the time. It takes someone out of a productive job in a smaller company.

Senator **Dodd**. Yes.

Mr. **Dehmlow**. How to define small versus large, that isn't it. It is something about an attitude and the attitude I spoke of was the attitude that I thought was the driving power—

Senator **Dodd**. No one disagrees. I can't disagree with you on that, and I don't with anything you have said Peggy, or what Cynthia said earlier about these notions, the ideas, where they come from, or the tremendous creativity that comes out of that unfettered competitive market place. I mean, someone would be a fool to argue with that. But, there are an awful lot of other things that go on that have a vital impact on what happens in this country, and they get neglected.

Let me just ask you one last question as a group.

You have heard that Minnesota has adopted legislation, my own state of Connecticut has, and Wisconsin is about to. You have about 15 states. Most states, I gather, anyway, in the last couple of years, have either proposed legislation in this area or are considering it. And, as business people, in most cases here, I think you are talking about home-grown operations without subsidiaries or branches beyond state lines. But, obviously, you would have a comment to make, I presume, on what I see as a potential danger in having 50 states with 50 different laws on parental leave. What are your comments on that?

Yes, Ruby.

Ms. CARTWRIGHT. Well, I would like to say that maternity leave in the early '70s we had a federal mandate that says you have to treat that the same as any other illness. We are doing that, I'm sure. Large small, medium size employers have to do that. But when you talk about the parental leave as unpaid so there is no cost, I find fault with that statement.

Senator DODD. I didn't say there was no cost. I didn't say there was no cost.

Ms. CARTWRIGHT. I thought I heard the terminology awhile ago that——

Senator DODD [interrupting]. No, no. We have a GAO study coming out. The cost estimates have already gone from sixteen billion down to about two. Those are the Chamber's statistics. We will have the GAO study done soon, we hope—they were going to have it for us this month. It looks like it will be the end of this month. They have been spending the last seven months working on it.

Ms. CARTWRIGHT. It is going to be very difficult to get an accurate number. Would you not agree with that?

Senator DODD. I will be interested in what they have to say, yes.

Mr. O'KEEFE. Senator, I know we have some offices throughout the country and I think when you are trying to follow different state laws, it does worry you that you are going to be doing the right thing. The bulk of our employees are here in Illinois. It is a refreshing feeling, since they have a standard to follow.

Senator DODD. I would agree with that.

Peggy Leonard, do you have any comment on that, since you are with a national organization?

Ms. LEONARD. Yes, we haven't explored that issue as an association, so I feel a little uncomfortable responding for the association. I mean, the philosophy extends whether it is Federal or state. My guess would be that the small business community would probably be more comfortable communicating with their local legislators, ironically, you know, the converse of what you are saying and I can appreciate your point, but that would be my guess because they feel that, "Hey, he lives only in the next city," or "She lives right down the block and I can talk to her, you know," but I don't know.

Senator DODD. You have all been excellent and very patient.

Ms. GRANTZ. May I make this one point?

Senator DODD. I'm sorry. Yes.

Ms. GRANTZ. Senator, when you were discussing this matter, a lot of companies have yet to even recognize the need here, but I think those of us who live in smaller cities, this issue has not come before us the way it has in larger communities. I mean, we have customers in towns like Dyersville, Iowa, and Oyens, Iowa. I mean manufacturing companies. A lot of us in the Midwest, who live in smaller communities, have different pressures, I think.

I wonder if it would be possible to—I mean I think the bill has raised an important concern for all of us, but I think a lot of us who have not had exposure to it directly in our businesses weren't really aware of the need to set these policies. Is it possible that we could have a postponement of action on this bill for a year and hold this up as something we should all strive to look at and examine and see what we can do for our people?

Senator **Dodd**. I can tell you honestly that nothing is going to happen very quickly on it, certainly nothing this fall. We haven't even talked about a markup in the committees, so we will be talking certainly about that length of time. And I tell you, we have had very constructive ideas and suggestions that have come from various business organizations and groups that I intend to incorporate as part of the proposal when it is offered.

I would appreciate it very much, Cynthia, in taking a look at this, if you have some ideas on how we could make this bill better. I realize I run into the problem of a mandated program—triggering business opposition. I suspect that is really where the bulk of the opposition comes from, not so much on the pieces of this thing. As I say, I find it somewhat ironic that an awful lot of the witnesses that oppose this legislation are already granting parental leave and doing it very successfully and well. So I would be very appreciative of your help.

Ms. **Grantz**. Because all of our businesses are different, you see.

Senator **Dodd**. Yes.

Ms. **Grantz**. Maybe manufacturers can offer a higher wage, but they can't provide some of the benefits another industry can.

There is no question about it that nobody applauds the poor employer, and I think, you know, the days of the image of, you know, some big, you know, guy sitting behind his desk and puffing on a cigar and, you know, just saying, "Drain the people," or whatever—I mean, those days are gone.

Senator **Dodd**. I know a few that are still left around. I have a friend of mine in the audience who is one of them here. [Laughter.]

Ms. **Grantz**. Well, we should have a little variety, don't you think? [Laughter.]

But I think some answers will come and if there is a possibility for people to approach them in their own way, it will, I think, serve us better in the long run.

Senator **Dodd**. Well, he smokes cigars all the time, Cynthia, this guy back here.

Doug. Never at hearings though.

Senator **Dodd**. Never at hearings, that's true, Doug.

Thank you all very, very much for coming. You are very, very helpful.

Now, for our benediction, we have Father George Rassas, who has been patiently sitting here through this testimony. Father Rassas of the Archdiocese of Chicago is the Director of the Office for Family Ministries, and he is before us this morning representing the Archdiocese of Chicago, and Cardinal Joseph Bernardin. We know this is a very busy time, obviously, for the Church, given the historic visit of the Pope. So we are especially delighted that Father Rassas could take time to be with us here this morning. Father Rassas, as I said, is our first witness, and we have Roberta Lynch and Shelley Gates, as well. Roberta is with the American Federation of County, State and Municipal Employees and is the Director of Public Policy for AFCSME, Council 31. Shelley Gates is with the Illinois Coalition for Parental Leave and is the Director of

Advocacy for Women Employed, an association with 1,200 members, to help women develop and change careers and promote economic quality for women. She will tell us of her firsthand experience in providing job counseling and the like. We welcome all three of you. Again, you have been "the" patient panel through all of this and I want you to know that I appreciate it very, very much.

Father, we will begin with you.

STATEMENT OF FATHER GEORGE RASSAS, ARCHDIOCESE OF CHICAGO

Father Rassas. I am Father George Rassas and Director of the Office of Family Ministries here in the Archdiocese. I do wish to represent the view of Cardinal Bernardin and the Roman Catholic Archdiocese of Chicago. I, also, appreciate the opportunity to testify in support of Senate Bill 249, the Parental and Medical Leave Bill of 1987.

NEED FOR PARENTAL LEAVE

Parental leave was one of the legislative policies endorsed in the 1986 pastoral letter on Catholic Social Teaching and the U.S. Economy. That statement by the nation's Catholic bishops explained that our faith calls us to evaluate the economy from a moral perspective. In the words of the Bishops from the Introduction to that Letter:

"Economic decisions have human consequences and moral content; they help or hurt people, strengthen or weaken family life, advance or diminish the quality of justice in the land." and from the first chapter:

". . . What does the economy do for people? What does it do to people? And how do people participate in it?"

The criterion for assessing specific policies and practices must be how they affect the human person. We congratulate the sponsors of this bill for recognizing a major problem now affecting most families, a problem that requires the attention of our government.

Because of massive economic changes, it now often takes the wages of two parents to maintain the same standard of living their own parents achieved with only one. Most mothers now have to work even when their children are very young. They work to make ends meet and to provide a better future for their children.

For many married couples, the decision to have a child is complicated by the fear that the mother will lose her job if she takes more than just a few weeks of leave during pregnancy or following the birth of the baby. The loss of the security, seniority and health benefits of a mother's job can be a serious blow to the economic and emotional stability of a family. Other couples can be discouraged from adopting children who need homes because neither parent can take enough time off from their jobs to help the children adapt to new families. A just policy of maternity leave needs to include cases of adoption.

In Catholic social teaching all people have a right to participate in the economic life of society. We also believe that married people have a right to welcome children, both biological and adopted. Parents should not have to choose between these two rights.

Unfortunately, most employers have not yet adjusted to these realities. In many occupations and labor markets, there are more workers than jobs, and employers often take advantage of this by using unfair leverage on workers in the form of low wages, poor working conditions, and unjust policies. In our society, those most likely to be subject to these indignities are women. Society as a whole, acting through government, has the moral responsibility of protecting human rights and dignity through fair labor laws. When the market place fails to protect people, the government must step in, as it has in the past in child labor laws, the minimum wage, and labor standards laws.

The Parental and Medical Leave Bill is in that tradition of establishing minimum protections for working people. We must be able to guarantee parents that they can take time off to care for their children without risking their jobs. Not only will individual families benefit from this legislation, but all of society will profit from the new protection. We all have a stake in the success of each family in nurturing America's children. While the Parental Leave Bill is no panacea for the work and family dilemma, it would be a beginning.

NEED FOR MEDICAL LEAVE

We also support the medical leave provisions of the bill which would protect workers against losing their jobs and health insurance benefits just when they need them most. Nearly every person can expect that sometime in their working lives they will experience at least one period of serious illness or disability. People can save for a rainy day, but there is no way most people can accumulate enough sick leave or vacation leave to cover the extended recovery period necessary after a serious heart attack, cancer, major accident, or other severe medical problems. One of the ways society can temporarily help disabled people is to make sure the disability doesn't become permanent because they have lost their jobs, insurance, and links to the community.

BURDEN ON EMPLOYERS

There has been a great deal of discussion in some circles about how the parental and medical leave provision would affect employers. Some have argued that employees will abuse the leave periods, taking the maximum number of weeks and creating havoc for employers. Some have even argued that it is "unfair" for others to carry an extra work load while their co-workers are on parental leave. In fact, this type of sharing of the risks and burdens is what life in community is all about. We strengthen the whole society when we assist those who are most vulnerable.

Our own experience as an employer indicates that the respect and support offered workers at times of family or medical crisis are repaid in loyalty, efficiency, and effectiveness. The costs of the leave policy are less than would be incurred by hiring and training new workers to take the place of those who need to take leave. Efficiency and morale are also enhanced because employees are not forced back to their jobs before they are able to give them their full attention.

I would like to suggest one improvement in Senate Bill 249. The companion bill in the House, House of Representatives Bill No. 925, would permit employees to take leave to care for one's own seriously disabled parents. In our view, that provision would be very helpful. In fact, we believe that both bills would be improved by a provision permitting family leave to care for a disabled spouse. As consideration of the bill progresses, we may suggest other refinements to Senate Bill 249.

In conclusion, on behalf of the Archdiocese of Chicago, in the name of Cardinal Bernardin, also, I urge the Subcommittee to give careful consideration to the Senate Bill and urge your colleagues to approve it at an early date.

Senator DODD. Thank you, Father, very much. I must tell you that the U.S. Catholic Conference has been terrific on this issue in every city we have been in. We have had testimony, personal or submitted testimony, from the Church, and it has been excellent testimony. I will take your suggestions back to Washington, D.C. I am aware of the differences in the House and Senate bills. I think you may have come in a little bit after I mentioned this. I have to be faced with the city of man. There is the city of God and the City of Man in Washington. In terms of the politics of it all, I am trying to get some additional co-sponsors even for this boiled-down version. So I appreciate what you are saying. I think it may be difficult for us to expand the bill but, nonetheless, your suggestions are good ones.

Ms. Lynch, thank you for coming here. Thank you for being patient.

STATEMENT OF ROBERTA LYNCH, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME)

Ms. LYNCH. Thank you, Senator Dodd.

As you indicated, I'm here today representing Council 31, the American Federation of State, County and Municipal Employees (AFSCME). We represent approximately 62,000 state and local government employees in the State of Illinois. And we appreciate very much the opportunity to testify today here before you. I would like to take this opportunity, too, to thank you, Senator Dodd, for sponsoring this very important piece of legislation.

It is AFSCME's position that this legislation is long overdue and represents a modest step toward squaring our public policy with the realities of work and family life in late twentieth century America. It provides an opportunity to move beyond rhetoric to concrete action in support of a pro-family policy.

Since we have heard so much today about the allegedly dire consequences of S.249, I would like to share with you, and the members of the Subcommittee who aren't here today, who submitted written testimony to this effect, AFSCME's Council 31's experience in this area.

Our Council represents approximately 40,000 employees who work directly for the State of Illinois. These members work in all types of state occupations—as clerical workers, in mental health hospitals, as food service workers, as prison guards, and in a variety of professional jobs such as social workers and psychiatrists.

Contrary to popular belief, public employers, like private employers, must operate within financial limits. Indeed, many public employers with whom we negotiate are facing eroding tax bases and cutbacks in federal aid. No less than small businesses, for instance, they are operating at the margin, and public employers must be extremely cost conscious. Yet since 1977, Illinois State employees have been entitled to a maternity leave which now ranges up to one year in duration. Furthermore, in 1984, we successfully negotiated a state "family responsibility leave" policy in our state contract which authorizes leave of up to one year in duration for a family-related emergencies or problems, some of those considerably beyond the scope even of S.249, but it does indeed cover the basic things. It includes parental leave for both spouses. It includes in the instance of an adoption of a child. It includes the instance of an illness of a child. And it does include other family members as well.

Based on our own experience, I can tell you that this leave policy has presented very little problems for an employer like the State of Illinois. While we sometimes have to fight hard for wage increases, sometimes very hard, and even resist employer demands to cut back existing contract protections, family leave simply has not emerged as a major employer concern in the time that we have had it in our contract, as you would expect if it was a major expense or causing any serious disruption in operations. It just has not been the case.

I would, also, like to emphasize that our bargaining experience belies the contention that even unpaid parenting leave—and this is unpaid—is an upper income "Yuppie" issue. For the most part, our members earn very modest salaries. While there are considerable variations, many earn less than $18,000, and very few earn more than $30,000. Anyone who has ever negotiated a labor agreement knows that only those issues that are deemed really important remain on the table throughout negotiations and end up incorporated in the collective bargaining agreement. Very simply, we have negotiated these provisions because our members feel that this is an important issue for them.

I would also like to note that in places where we have not negotiated this, we do continue to have problems with employees who take leaves and cannot get their jobs back and it is an ongoing constant concern for people at all income levels.

An essential part of a pro-family public policy is to help ease the tension and conflict created by trying to balance work and family responsibilities. Organized labor and employers have important roles to play and our union, as I'm sure you are aware, has a very long history of concern with trying to ensure that women can play a full role in the work force and that the parental responsibilities can be fully shared by both parents. Our union here in Illinois, Council 31, is going to continue to negotiate with employers for better wages, for better parenting leave and fringe benefits, including child care in some cases. But government, too, has an important role to ensure so that there are minimum standards of parental leave and job security to which all workers must be entitled so no one has to be forced to choose between their job and their family. S.249 would establish those standards.

Once again, I would like to thank you for holding this regional hearing, focusing on the need for parental leave here in the nation's industrial heartland, and I hope that the Subcommittee, the full committee, and indeed the Congress of the United States, will act speedily on this very important legislation.

Thank you, Senator.

Senator DODD. Thank you very much, Ms. Lynch, and I would be remiss as well, if I didn't thank you but, also, thank AFSCME for their tremendous work on this. They have really been the lead within the labor movement in support of this concept and the idea and the legislation. Chuck Loveless, by the way, has been terrifically helpful. I am very grateful to him as well. I should have mentioned earlier that Susan Campbell, with the American Academy of Pediatrics has also been tremendously helpful. I know Chuck knows her as well. So I thank you for your participation.

[The prepared statement of Ms. Lynch follows:]

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Statement of

Roberta Lynch

Director of Public Policy, Council 31
American Federation of State, County,
and Municipal Employees

Before the

Committee on Labor and Human Resources',
Subcommittee on Children, Family, Drugs and Alcoholism

on

S. 249, The Parental and Medical Leave Act of |987

Chicago, Illinois
September 14, 1987

in the public service

Mr. Chairman, my name is Roberta Lynch. I am Director of Public Policy of Council 31 of the American Federation of State, County and Municipal Employees (AFSCME). Council 31 represents approximately 62,000 state and local government employees in the State of Illinois.

Accompanying me is Charles Loveless of AFSCME International's Legislation Department in Washington, D. C. We are pleased to be here today to testify before the Subcommittee in support of S. 249, the Parental and Medical Leave Act of 1987, introduced by Senators Dodd and Specter. We appreciate the opportunity to testify today, and thank you, Senator Dodd, for your leadership on this issue.

It is AFSCME's position that this legislation is long overdue and represents a modest step toward squaring our public policy with the realities of work and family life in late twentieth century America. It provides an opportunity to move beyond rhetoric to concrete action in support of a pro-family policy.

S. 249 should not be controversial. It merely provides that if an employee needs to be off the job to care for a new child or because a child is ill or because the employee is ill, the employee's job or a comparable job will be waiting when he or she returns. Employers who care about their employees should be providing such leave without having to be ordered to do so by law. Unfortunately, like equal pay and the eight hour work day, family leave will not be universally guaranteed without congressional action. While "voluntarism" and "flexibility" are attractive buzz words for American industry, the voluntary, flexible approach for many employers translates into no leave or very limited leave with no job guaranteed upon return.

Surveys of very large firms confirm that the vast majority provide some paid pregnancy leave with the right to return to the job, but just slightly more than half offer unpaid, job-guaranteed parental leave. So there are serious gaps in leave entitlements even among blue chip companies.

Most of the labor force, however, does not work for large corporations. Only one worker in six in the private sector works for a corporation with over 1,000 employees. The results of the National Council of Jewish Women's survey which covered a broad spectrum of industries and included both large and small employers shows that only a small minority of employers with twenty or more employees provide each of the components of S. 249. For example, only 12 percent provide 18 weeks of job protected, unpaid parental leave and only 26 percent provide 26 weeks of unpaid medical leave. Most revealing is that only one percent of these employers provide the entire S. 249 package! Clearly, if workers are going to be able to take needed time away from work without jeopardizing their jobs, legislation is absolutely essential.

Why do employers have such a poor track record, and why are they fighting this bill so fervently? Their primary excuse is cost. Cost seems to be the business community's "knee jerk" reaction to any measure benefiting workers. Wage and hour laws, OSHA, ERISA and the Equal Pay Act are all now accepted standards to which employers have adjusted. Yet when each of these laws was being debated, employer organizations predicted that if enacted they would send employers to the bankruptcy courts in droves. History teaches, therefore, to view the cost arguments of employer organizations with considerable skepticism.

We believe that cost is a particularly weak argument to be advanced against S. 249. Unlike measures such as minimum wage and equal pay, there are no direct costs associated with S. 249, except for the cost of continuing the employer's contribution to health care -- whatever the level of contribution may be -- during the leave period. While we recognize that there may be some costs for some employers occasioned by hiring and training temporary workers or in paying overtime premiums, this bill is hardly a big ticket item.

Employers apparently realize this and do not claim that this legislation will bring down Exxon and General Motors. Rather, they argue that it will be small employers operating at the margin who will be most severely affected.

We respond to this concern in the following way. In the first place, most small employers are exempted from this legislation as S. 249 covers only employers with more than 15 employees. State data from the U.S. Census Bureau reveals that employers with less than 20 employees comprise between 85 and 91 percent of total employers, and employers with less than 10 employees compromise 75 percent or more of all employers, except in Maryland and the District of Columbia. It may, therefore, be concluded that at least four out of five employers would be exempted from coverage under S. 249.

In terms of employees exempted, the bill as drafted excludes over 20 percent of all employees. We understand that proposals currently are being circulated to exempt all employers with less than 50 employees. We urge that the Subcommittee reject such proposals because they would result in almost half of all workers being denied coverage under the legislation.

Since we have heard so much about the allegedly dire consequences of S. 249, I would like to share with the members of the Subcommittee AFSCME Council 31's experience in this area. Council 31 represents approximately 40,000 Illinois State employees. AFSCME members work in all types of state occupations -- as clerical workers, mental health facility employees, food service workers, prison guards and in professional jobs.

Contrary to popular belief, public employers, like private employers, must operate within financial limits. Indeed, many public employers with whom we negotiate are facing eroding tax bases and cutbacks in federal aid. No less than small businesses operating at the margin, public employers must be extremely cost conscious. Yet since 1977, Illinois State employees have been entitled to maternity leave of up to one year in duration. Furthermore, in 1984, we sucessfully negotiated a state "family responsibility leave" policy which authorizes leave of up to one year in duration for family-related emergencies or problems considerably beyond the scope of S. 249. The family responsibility leave policy is set forth below as Attachment A.

Based on our own experience, this leave policy has presented no special problems for the State of Illinois. While we must often fight hard for a wage increase and must resist employer demands to cut back important contract protections, family leave simply has not emerged as a major employer concern as we would expect if it was a major expense or was causing serious disruption in operations.

It also should be emphasized that our bargaining experience belies the contention that unpaid parenting leave is an upper income "Yuppie" issue. For the most part, our members earn very modest salaries. While there are considerable variations, many earn less than $18,000, and very few earn more than $30,000. Anyone who has ever negotiated a labor agreement knows that only the issues deemed most important remain on the table throughout negotiations and end up incorporated in the collective bargaining agreement. Very simply, we have successfully negotiated parenting leave because our members have made it a priority issue.

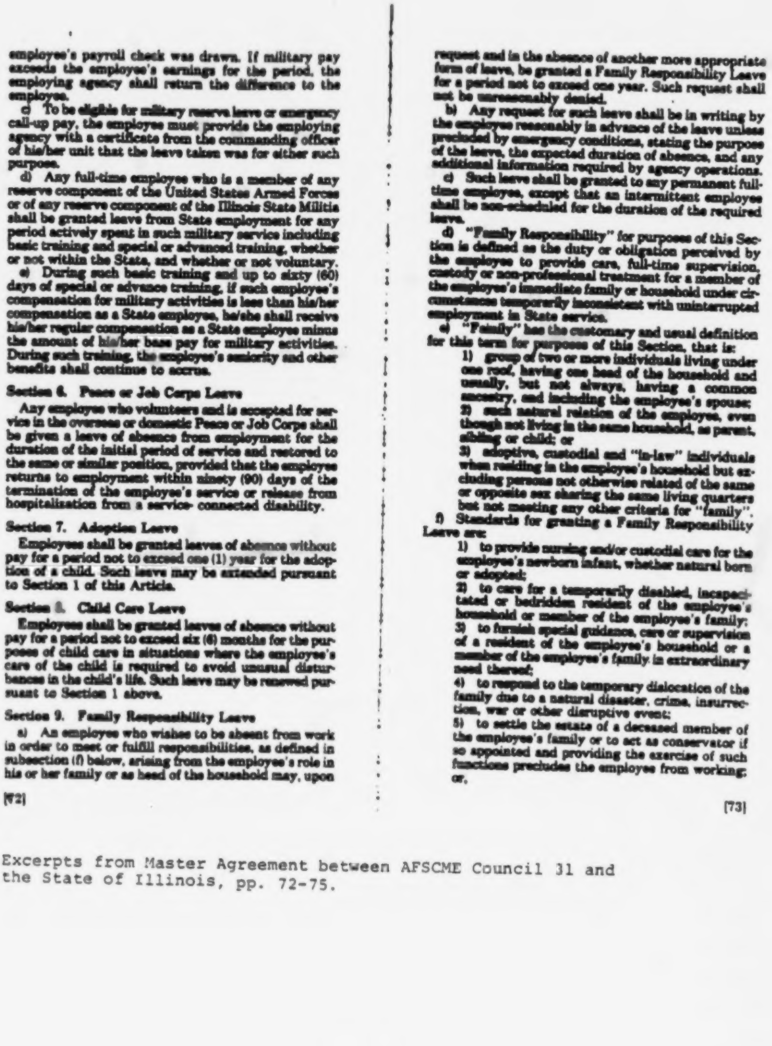
Based on our own experience, I think it can be reasonably concluded that S. 249 will not levy significant additional costs on state and local governments. I would suggest that this is one of the major reasons why the National Conference of State Legislatures which represents state legislators across the nation recently reaffirmed its support for the leislation. And, if government at all levels can live with unpaid parenting leave, then so can private industry.

Today, organizations and public officials of all political persuasions are claiming to be pro-family. AFSCME believes that real family issues have nothing to do with censuring textbooks or blocking federal programs to combat domestic violence. To us, to be pro-family is to first accept the fact that women are in the work force to stay -- because they cannot afford not to be and because our economy cannot do without them. We are no longer in 1950 when only 12 percent of women with small children were in the work force. Once we comprehend this new reality, the next step is for us to determine how to help today's families thrive.

An essential part of a pro-family public policy is to help ease the tension and conflict created by trying to balance work and family responsibilities. Organized labor and employers have an important role to play. AFSCME Council 31 will continue to negotiate with our employers for better wages, liberal parenting leave and fringe benefits, including child care to protect and assist our union families. But government too has an important role to ensure that there are minimum standards of parental leave and job security to which all workers must be entitled so no one need be forced to choose between job and family. S. 249 would establish such standards.

Once again, I thank the Chairman and the Subcommittee for holding this regional hearing focusing on the need for parental leave in the nation's industrial heartland, and, I respectfully urge you to take favorable action on this extremely important legislation. We would be pleased to answer any questions you may have.

ATTACHMENT A



employee's payroll check was drawn. If military pay exceeds the employee's earnings for the period, the employing agency shall return the difference to the employee.

c) To be eligible for military reserve leave or emergency call-up pay, the employee must provide the employing agency with a certificate from the commanding officer of his/her unit that the leave taken was for either such purpose.

d) Any full-time employee who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia shall be granted leave from State employment for any period actively spent in such military service including basic training and special or advanced training, whether or not within the State, and whether or not voluntary.

e) During such basic training and up to sixty (60) days of special or advance training, if such employee's compensation for military activities is less than his/her compensation as a State employee, he/she shall receive his/her regular compensation as a State employee minus the amount of his/her base pay for military activities. During such training, the employee's seniority and other benefits shall continue to accrue.

Section 6. Peace or Job Corps Leave

Any employee who volunteers and is accepted for service in the overseas or domestic Peace or Job Corps shall be given a leave of absence from employment for the duration of the initial period of service and restored to the same or similar position, provided that the employee returns to employment within ninety (90) days of the termination of the employee's service or release from hospitalization from a service- connected disability.

Section 7. Adoption Leave

Employees shall be granted leaves of absence without pay for a period not to exceed one (1) year for the adoption of a child. Such leave may be extended pursuant to Section 1 of this Article.

Section 8. Child Care Leave

Employees shall be granted leaves of absence without pay for a period not to exceed six (6) months for the purpose of child care in situations where the employee's care of the child is required to avoid unusual disturbances in the child's life. Such leave may be renewed pursuant to Section 1 above.

Section 9. Family Responsibility Leave

a) An employee who wishes to be absent from work in order to meet or fulfill responsibilities, as defined in subsection (f) below, arising from the employee's role in his or her family or as head of the household may, upon

request and in the absence of another more appropriate form of leave, be granted a Family Responsibility Leave for a period not to exceed one year. Such request shall not be unreasonably denied.

b) Any request for such leave shall be in writing by the employee reasonably in advance of the leave unless precluded by emergency conditions, stating the purpose of the leave, the expected duration of absence, and any additional information required by agency operations.

c) Such leave shall be granted to any permanent full-time employee, except that an intermittent employee shall be non-scheduled for the duration of the required leave.

d) "Family Responsibility" for purposes of this Section is defined as the duty or obligation perceived by the employee to provide care, full-time supervision, custody or non-professional treatment for a member of the employee's immediate family or household under circumstances temporarily inconsistent with uninterrupted employment in State service.

e) "Family" has the customary and usual definition for this term for purposes of this Section, that is:

1) group of two or more individuals living under one roof, having one head of the household and usually, but not always, having a common ancestry, and including the employee's spouse;
2) such natural relation of the employee, even though not living in the same household, as parent, sibling or child; or
3) adoptive, custodial and "in-law" individuals when residing in the employee's household but excluding persons not otherwise related of the same or opposite sex sharing the same living quarters but not meeting any other criteria for "family".

f) Standards for granting a Family Responsibility Leave are:

1) to provide nursing and/or custodial care for the employee's newborn infant, whether natural born or adopted;
2) to care for a temporarily disabled, incapacitated or bedridden resident of the employee's household or member of the employee's family;
3) to furnish special guidance, care or supervision of a resident of the employee's household or a member of the employee's family in extraordinary need thereof;
4) to respond to the temporary dislocation of the family due to a natural disaster, crime, insurrection, war or other disruptive event;
5) to settle the estate of a deceased member of the employee's family or to act as conservator if so appointed and providing the exercise of such functions precludes the employee from working; or,

Excerpts from Master Agreement between AFSCME Council 31 and the State of Illinois, pp. 72-75.

6) to perform family responsibilities consistent with the intention of this Section but not otherwise specified.

g) If an agency requires substantiation or verification of the need by the employee for such leave, the substantiation or verification shall be consistent with and appropriate to the reason cited in requesting the leave, such as:

1) a written statement by a physician or medical practitioner licensed under the "Medical Practices Act" (Ill. Rev. Stat. 1981, Ch. 111, pars. 4401 et seq.) or under similar laws of Illinois or of another state or country or by an individual authorized by a recognized religious denomination to treat by prayer or spiritual means, such verification to show the diagnosis, prognosis and expected duration of the disability requiring the employee's presence.

2) written report by a social worker, psychologist, or other appropriate practitioner concerning the need for close supervision or care of a child or other family member;

3) written direction by an appropriate officer of the courts, a probation officer or similar official directing close supervision of a member of the employee's household or family; or

4) any reasonable independent verification substantiating that the need for such leave exists.

h) Such leave may not be renewed, however a new leave may be granted at any time for any appropriate reason other than that for which the original leave was granted.

i) If an agency has reason to believe that the condition giving rise to the given need for such leave no longer exists during the course of the leave, it should require further substantiation or verification and, if appropriate, direct the employee to return to work on a date certain.

j) Failure of an employee upon reasonable request by the employing agency to provide such verification or substantiation timely may be cause on due notice for termination of the leave.

k) Such leave shall not be used for purpose of securing alternative employment. An employee during such leave may not be gainfully employed full time, otherwise the leave shall terminate.

l) Upon expiration of a Family Responsibility Leave, or prior to such expiration by mutual agreement between the employee and the employing agency, the agency shall return the employee to the same or similar position classification that the employee held immediately prior to the commencement of the leave. If there is no such position available, the employee will be subject to layoff in accordance with the Section on Voluntary Reduction and Layoff.

m) Nothing in this Section shall preclude the reallocation or abolition of the position classification of the employee during such leave nor shall the employee be exempt from the Section on Voluntary Reduction and Layoff by virtue of such leave.

Section 10. Leave for Union Office

The Employer shall grant requests for leaves of absence for not more than twenty-eight (28) bargaining unit employees at any one time for the purpose of service as AFSCME representatives or officers with the International, State, or Local organization of the Union for up to a maximum of two (2) years each, provided adequate notice thereof is given to the Employer and the granting of such leave will not substantially interfere with the Employer's operations. Such leaves shall be in increments of no less than one (1) month. The number and length of such leaves may be increased or decreased by mutual agreement of the parties. Leaves currently in effect shall be extended for the duration of the Agreement if so requested.

Section 11. Leave to Take Exempt Position

The Director of Central Management Services may approve leaves of absence for certified employees who accept appointment in a State position which is exempt from Jurisdiction "B" of the Personnel Code. Such leaves of absence may be for a period of one (1) year or less and may be extended for additional one (1) year periods.

Section 12. Attendance in Court

Any employee called for jury duty or subpoenaed by a legislative, judicial, or administrative tribunal, shall be allowed time away from work with pay, except in matters of non-work related personal litigation, for such purposes. Upon receiving the sum paid for jury service or witness fees, the employee shall submit the warrant, or its equivalent, to the agency to be returned to the fund in the State Treasury from which the original payroll warrant was drawn. Provided, however, an employee may elect to fulfill such call or subpoena on accrued time off and personal leave and retain the full amount received for such service. An employee called for reasons contained herein shall have such days considered as days worked for the purpose of scheduling and shall be given commensurate days off from work on his/her next scheduled work day(s) for any days which he/she would otherwise not have worked.

Section 13. Leave to Attend Professional Meetings

Employees shall be granted reasonable amounts of leave with pay to attend professional meetings.

Senator DODD. Ms. Gates.

STATEMENT OF SHELLEY GATES, ILLINOIS COALITION FOR PARENTAL LEAVE, CHICAGO, IL

Ms. GATES. As you said, I am the Advocacy Director for Women Employed, which is a Chicago-based organization of working women with over 1,200 members in the Chicago area. I am testifying today not only on behalf of the women employees but, also, on behalf of the more than 60 organizations that make up the Illinois Women's Agenda and a coalition which we formed in order to push for this legislation called Family and Medical Leave Act—Illinois or (FAML-I) coalition.

We support the Parental and Temporary Medical Leave Act because it would provide a long overdue minimum standard concerning parental and medical leave for employees.

Through my work at Women Employed, I have had the opportunity to see firsthand the huge gap between the needs of working parents and most employers' policies. One of the most serious problems facing working parents today is the lack of adequate maternity or parental leave. Only 40 percent of women in Illinois are entitled to a six-week job protected leave at the time of childbirth. Some women depend on accumulated sick days of a week or two, plus their vacation time, and they still have less than one month off when they give birth. Others do not have even that. Although the federal Pregnancy Discrimination Act of 1978 and the Illinois Human Rights Act require employers to provide disability leave and benefits to pregnant women in the same manner that they would for any other employee with a short-term disability, many employers—particularly those with fewer than 100 employees, where most women work—simply do not have disability policies at all. In Illinois and most other states, if a company does not have a disability policy, it does not have to provide even one day of leave to a woman having a baby and is not under any obligation to have her job or a similar job waiting for her when she is ready to return to work. Despite the fact that the number of company-sponsored parental leave policies is on the rise, the majority of working women are left without economic security at the time of childbirth.

Employees' needs go beyond job-protected maternity leave. Fathers also need and want to take time off to care for newborn or newly adopted babies. Both parents need leave to care for seriously ill children. Employees should be able to take time off from work when elderly, dependent parents are in need of care and retain reasonable job security. Job-protected temporary medical leave decreases the physical, emotional and financial strains on both the seriously ill worker and his, or her, family and significantly improves the chances of the worker's recovery. The Parental and Temporary Medical Leave Act will not only make it easier for employees to responsibly fulfill their work and dependent care obligations, but it will do so without undue expense to employers. First, since the leave is unpaid, employees can only afford to take it when it is absolutely necessary. While employees of the State of Illinois have been entitled to unpaid leaves of absence for dependent care responsibilities since 1983, as Robert said, only 567 State employees have taken this leave, as of August of this year.

Senator DODD. Out of how many?

Ms. GATES. I don't know.

Ms. LYNCH. Well, there are 40,000 employees, but I would like to correct something because it is very important.

Ms. GATES. I know it is a lot.

Senator DODD. 40,000?

Ms. LYNCH. 40,000 State employees, but I think it is important, Senator. Maternity leave is separate from family responsibilities, so that 567 does not include maternity leave.

Ms. GATES. That's right.

Senator DODD. But this would be family leave?

Ms. GATES. Right. This would be for beyond, taking care of other responsibilities with family care.

Also, because parents have a minimum amount of job-protected leave not under this bill, without this bill, many parents right now are forced to quit their jobs, and that's what I hear all the time through our Job Problems Counseling at Women Employed. When employees take a new job with a different employer, they have to start all over again in terms of accumulating seniority and benefits and their new employer must train them and, also, the employer that they used to work for has to train someone new for their former positions, so there is a lot of job changing going on here which is very expensive to employers and it is not something that a lot of the Chamber of Commerce and the other groups that are against this bill talk about and I'm not sure why.

Basically, a lot of the studies have shown that hiring and training a new permanent employee can cost nearly the equivalent of a year's salary, so it is a very expensive kind of turnover. Allowing job-protected leave would, therefore, decrease expenses to employers. It would reduce turnover and improve morale and increase productivity.

The Parental and Temporary Medical Leave Act would provide basic, humane assistance to workers when it is most needed. Protection against being discharged from a job because of serious illness, because of giving birth, because of taking unpaid time off to care for a newborn or newly adopted children, or to care for a seriously ill child or parent is a standard which we as a nation must legislate and enforce, just as we have done in the case of the minimum wage, the eight-hour day, equal employment opportunity laws, and child labor laws.

The members of the FAML-I coalition—there is a list attached to my written testimony—are working to ensure the passage of family and medical leave at both the state and the federal level, and we thank Senator Dodd for introducing this landmark legislation and we appreciate the opportunity to testify.

Senator DODD. Thank you very much, Ms. Gates.

[The prepared statement of Ms. Gates follows:]

Illinois
Women's
Agenda

118 N. Clinton St., Room 200 • Chicago, Illinois 60606 • (312) 726-1526

TESTIMONY BEFORE THE U.S. SENATE SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM

HEARINGS ON PARENTAL AND TEMPORARY MEDICAL LEAVE

SEPTEMBER 14, 1987
CHICAGO, ILLINOIS

Submitted by: Shelley Gates
Advocacy Director, Women Employed
Chair, Employment Task Force, Illinois
Women's Agenda

My name is Shelley Gates and I am the Advocacy Director for Women Employed, a Chicago-based organization of working women with over 1200 members. I am testifying today on behalf of the more than 60 organizations that make up the Illinois Women's Agenda and the Family and Medical Leave Act - Illinois (FAML-I) coalition.

We support the Parental and Temporary Medical Leave Act because it would provide a long overdue minimum standard concerning parental and medical leave for employees.

Over the past thirty years, we have seen fundamental changes in the structure of the American family and in the composition of the American labor force. Today, only 7 percent of our nation's families are "traditional" families -- a married couple with two or more school-age children and a wife who does not work outside the home. There are now 52 million women working outside the home -- they make up nearly half of the U.S. labor force. Studies report that 80 percent of female Americans who work are currently of childbearing age and 93 percent of these women are expected to become pregnant in the course of their careers. Half of all women with children under the age of one are in the workforce, and seventy percent of mothers with children under three are working mothers.

Most of these women are working because of economic necessity. Two-thirds of working women are the sole providers for their families or are married to men who earn less than $15,000 per year. Whether they are single heads of households or in dual-earner families, women work to support themselves and their families.

The American workplace is not, for the most part, set up to deal with the competing demands of work and dependent care responsibilities that most employees face at some point in their working lives. Our legal rights and most employers' policies are lagging considerably behind our needs as working parents.

Through my work at Women Employed, I have had the opportunity to see first hand the huge gap between the needs of working parents and most employers' policies. One of the most serious problems facing working parents today is the lack of adequate maternity or parental leave. Only 40 percent of women in Illinois are entitled to a six-week job-protected leave at the time of childbirth. Some women depend on accumulated sick days of a week or two, plus vacation time, and they still have less than one month of time off when they give birth. Others do not have even that. Although the federal Pregnancy Discrimination Act of 1978 and the Illinois Human Rights Act require employers to provide disability leave and benefits to pregnant women in the same manner that they would for any other employee with a short-term disability, many employers -- particularly those with fewer than 100 employees, where most women work -- simply do not have disability policies at all. In Illinois and most other states, if a company does not have a disability policy, it does not have to provide even one day of leave to a woman having a baby and is not under any obligation to have her job or a similar job waiting for her when she is ready to return to work. Despite the fact that the number of company-sponsored parental leave policies is on the rise, the majority of working women are left without economic security at the time of childbirth.

What this means is that, despite the protection provided by the Pregnancy Discrimination Act, most maternity leaves are individual arrangements made by women with enough clout to negotiate with their bosses. Lower-paid, less skilled employees -- those most in need of economic protection at the time of childbirth -- are the least likely to get it.

Employees' needs go beyond job-protected maternity leave. Fathers also need and want to take time off to care for newborn or newly adopted babies. Both parents need leave to care for seriously ill children. Employees should be able to take time off from work when elderly, dependent parents are in need of care and retain reasonable job security. Job-protected temporary medical leave decreases the physical, emotional and financial strains on both the seriously ill worker and his/her family and significantly improves the chances of the worker's recovery.

The Parental and Temporary Medical Leave Act will not only make it easier for employees to responsibly fulfill their work and dependent care obligations, but it will do so without undue expense to employers. First, since the leave is unpaid, employees can only afford to take it when it is absolutely necessary. While employees of the State of Illinois have been entitled to unpaid leaves of absence for dependent care responsibilities since 1983, only 567 employees had taken this leave by August, 1987. Second, unless they have a minimum a amount of job-protected leave, many parents are forced to quit their jobs. When they take a new job with a different employer, they must start all over in terms of accumulating seniority and benefits, and their new employer must train them. Since studies have shown that hiring and training a new permanent employee can cost nearly the equivalent of a year's salary, this type of turnover is extremely expensive for employers. Allowing job-protected leave for dependent care responsibilities and temporary serious health conditions would reduce turnover and improve morale, thus increasing productivity.

This bill will also help reduce the costs to the state for social services and welfare that result when employers ignore the real medical and dependent care needs of workers.

The Parental and Temporary Medical Leave Act would provide basic, humane assistance to workers when it is most needed. Protection against being discharged from a job because of serious illness, because of giving birth, because of taking unpaid time off to care for a newborn or newly adopted child, or to care for a seriously ill child or parent is a standard which we as a nation must legislate and enforce.

The members of the FAML-I coalition are working to ensure the passage of family and medical leave at both the state and federal levels. We thank Senator Dodd for introducing this landmark legislation and appreciate the opportunity to testify at this hearing.

FAMILY AND MEDICAL LEAVE - ILLINOIS (FAML-I) COALITION
AS OF SEPTEMBER, 1987

American Association of University Women - Illinois
American Federation of State, County and Municipal Employees
American Jewish Congress
Chicago Council of Lawyers
Chicago NOW
Chicago Women in Architecture
Chicago Women in Trades
Coal Employment Project
Coalition of Labor Union Women
Cook County Democratic Women
Family Resource Coalition
Illinois Association for the Education of Young Children
Illinois Women's Agenda
Illinois Women Miners' Support Group
League of Women Voters of Illinois
Midwest Women's Center
National Council of Jewish Women
Older Women's League
Service Employees International Union, District 925
Springfield NOW
Women Employed
Women's Bar Association of Illinois
YWCA of Metropolitan Chicago

Senator DODD. All three of you have been very helpful. You have anticipated basically all my questions in your own comments and testimony. I think I have had the same difficulty, Ms. Gates, with the business community. What I find is that from time to time you have people who disagree with an idea conceptually on the basis that it is going to do something negative. This is not the case. I mean, it was interesting to see this on our previous panel. I don't think any of them are here now, but they were the panel of people from the business community. It was so intriguing to hear some of them talk about their great understanding with a worker who had to go to India, or someone who had to go to the Philippines, or someone else who had a heart attack. I mean, they really do understand it and they support the notion that you should help—what you were talking about, Father. It's the idea of government mandates they oppose. And maybe it is a healthy notion they have, of being wary of government mandates. That's really, I think, what it comes down to here. I don't know what the GAO study is going to say, but I would not be shocked to find it talking about how parental leave is not only not a negative but, in fact, could be a plus. We need to begin to get people to think about it in those terms. And, again, we have witnesses, and we have heard some of them here today—the gentleman that works with that firm, Fel Pro, where parental leave is one among many programs they do. I mean, they are involved in a broad array of work and family issues. Or that young woman, Darice Wright, and what these programs have meant to her. And other small firms that we have had before us who have instituted parental leave and child care have felt the same way. I don't want to confuse the two issues, but child care is obviously a related issue. And employers have found that all of a sudden the tension, the overall turnover, high absenteeism, and low productivity, all the problems employers complain about all the time virtually evaporate when employers show that kind of concern for what happens to workers and their families with the pressures of economic life today. I have asked my colleagues in the Senate from time to time, when visiting the rural and smaller communities in their states, to try and make a phone call between the hours of 3:15 and 4:15 or whatever time school gets out. In the rural areas, where there are not as many power lines, there is a gap between the time you dial the last digit and when that number clicks in. And the reason that happens is because the phone lines are generally jammed with parents at work calling to see if their children are home yet. There is that tremendous concern and preoccupation that people have about their children and what is happening to them. There are dozens of examples like that. I don't mean to go on too long here, but you have all been terrific. The Church has been fabulous on this, Father. And organizations like yours, Ms. Gates, around the country are really doing a lot, and are really coming together on this. And we hope sometime next year to really begin to close ranks and move forward on this legislatively. So I thank you for being so patient, too, in staying here all morning.

Also included in the record is a prepared statement of Elizabeth Clarke, Small Business Owner.

And a prepared statement of Representative Barbara Flynn Currie who did not get to the hearing to present her testimony.

[Additional statements supplied for the record follow:]

TESTIMONY BY

ELIZABETH CLARKE, SMALL BUSINESS OWNER

Before: Senate Committee on Labor and Human Resources
Sub Committee on Children, Family, Drugs and
Alcoholism

Subject: S. 249 "Family and Medical Leave Act of 1987"

Date: September 14, 1987

Since our small businesses are the "engine" of our United States economy and they offer and create 90% of new job opportunities, Congress should create the legal environment most conducive to successful and growing businesses. People, men and women, need employment to pay for their shelter, food, clothes, etc. so Congress should do all it can to help companies prosper. Congress must not add so many obstacles to business survival that large numbers fail and leave huge numbers of parents unemployed.

Senate Bill 249, the Family and Medical Leave Act, would result in a severe, adverse impact on businesses, especially small businesses, by:

A. Requiring employers to pay employment benefits while the employee is away from work on the leave of absence, or possibly successive leaves of absence, mandated by the Act.

B. Duplicating these benefits for the temporary replacement employee.

C. Creating uncertainty for the employer of whether a particular employee will be working or not by saying "in the case of a son, daughter, or parent who has a serious health condition, such leave may be taken intermittently . . . " This provision could mean taking the unpaid leave in increments of a few hours a day- one hour per day on some days, two hours per day on some days, etc. How can a company get its product produced on time never knowing how many employees, especially key employees-- quality control people, artistic personnel, pattern workers, etc.--would be present one time and not the next?

D. Penalizing employers for non-compliance; and all the responsibilities and liabilities under the Act are on the employer. The employees are REQUESTED to notify the company of planned absences in a reasonable manner, but there are no penalties in the act for not doing it.

Moreover, employers are, under this act, required to keep and preserve records. I am an employer who provides a service to various companies. My clients simply could not stay in business with this added burden. The automotive service station owner, for instance, who employs 15 people, including mechanics, gas pumpers etc., is working himself ten or twelve hours a day managing his business including scheduling employees, keeping parts available, customers happy, bills mailed and collected, records up to date for all the present government requirements. His margin of profit is so small that this added requirement would be the straw that killed the company and put himself and 15 employees out of work.

Especially difficult for the employer will be obtaining competent temporary replacements for employees performing high-skilled jobs who opt to take the leave as mandated by the Act. Most of the truly high-skilled or licensed jobs, automotive mechanics, journeymen plumbers, electricians, appliance repairmen etc. would not be replaceable at all on a temporary basis, at the same rate of pay, or any rate of pay. And the adverse cost impact, if a replacement could be found, would still be severe because of the time lost in necessary training of the replacement in the employer's business procedures, quality standards, etc.

And to the extent that our U.S. businesses are impacted by increased costs from the Act, foreign businesses will take away U.S. markets, adding to the catastrophic adverse balance of international payments which is already at a crisis level, and forcing further devaluation of the dollar with the train of unfavorable consequencese that will follow.

There are many more costs and problems in this act for people trying to run a business and make enough to stay viable. I have just mentioned a few. If the Congress really wants to help parents and future or present children, Congress will refuse to destroy the thousands of companies of this country that would be lost because of this proposed legislation.

Congress should reject the Family and Medical Leave Act. Please vote "no" on S. 249.

E. R. CLARKE ASSOCIATES, INC.
Personnel Practice Consultants

Elizabeth Clarke
Vice President
(312) 234-2095

725 Timber Lane
Lake Forest, IL 60045

CITIZENS ASSEMBLY
SERVING THE ILLINOIS GENERAL ASSEMBLY

The Citizens Council on Women

Rep. Barbara Flynn Currie
Co-chairwoman

Sen. Virginia Macdonald
Co-chairwoman

Rep. Jane Barnes
Patricia Bergman
Elizabeth Clarke
Rep. Karen Hasara
Sen. Joyce Holmberg
Rep. Lovana Jones
Judith Ann Kohler
Margaret Lujan
Mary Lee McDaniel
Sen. Robert Raica
Beatrice Rieckhoff
Joan Salvato
Phyllis Schlafly
Sen. Margaret Smith

Testimony

September 14, 1987

Family and Medical Leave

Representative Barbara Flynn Currie

300 WEST MONROE • SPRINGFIELD, ILLINOIS 62706 • (217) 782-4546

Mister Chairman and members of the Subcommittee, I am Illinois State Representative Barbara Flynn Currie. I appear before you today to discuss the State of Illinois' employee "Family Responsibility Leave Plan" and pending private sector legislation on behalf of the Illinois Citizen Council on Women, a research and advocacy unit of the Illinois Legislature.

In 1983, the Illinois General Assembly amended the State's personnel code to establish a pro-family uniform leave policy. Under this statute, State employees may request and receive leave of absences, without penalty, to meet "bona fide family responsibilities."

Circumstances which constitute a bona fide family responsibility are defined as, but not limited to, the following:

- •nursing and/or custodial care for the employee's natural born or adopted infant;
- •caring for a temporarily disabled, incapacitated or bedridden member of the employee's family or household; and
- •providing special guidance, supervision or care for a member of the employee's family or household.

Administrative rules adopted to implement the Act, further define bona fide circumstances as the following:

- •to respond to the temporary dislocation of the employee's family or household resulting from a natural disaster, crime, insurrection, war or other disruptive events and
- •to settle the estate of a family member.

A family or household member is described, by rule, as a spouse, parent, natural child, in-law, adopted or custodial child, or a group of individuals who share a residence and have a common head of household. The rules specifically reference the policy's applicability to the employee's spouse.

Employees requesting such a leave are assured that during their absence seniority will not be reduced, State service will not be considered broken and insurance coverage will continue with the employee responsible for paying the entire premium. In addition, the employee is guaranteed the right to return to the same position and classification at the termination of their leave.

Leave is granted to the employee without pay and may be terminated with cause prior to the agreed date.

Critics of the plan cautioned that the cost in both dollars and disruption would adversely effect the operation of the State. These charges have not come to fruition. To date, only 567 employees, 64 men and 503 women, have chosen to exercise this option. This represents an average of 162 employee leaves for each of the calendar years the plan has been in existence. For these individuals, the family responsibility plan has provided a reasonable method for dealing with family problems, which if the employee remained on the job would prove costly and disruptive in low productivity and unplanned work loss.

The concerns that stimulated the passage of the Family Responsibility Leave Plan remain as timely today as they were in 1983:

Concern for the stability of the family. Experts and lay people, a like, have observed that the American family is in trouble. Stress caused when an individual who is employed outside the home is thrust into the role of caregiver to a child, an aging parent or a spouse serves only to exacerbate the situation. Where once female caregivers simply dropped out of the labor force, economic considerations no longer make this possible. With 64 percent of all women 18 to 64 years of age in the labor force in 1985 and labor specialists predicting that the needs of the nation's economy require this trend to continue, the problems of employed caregivers must be addressed as the societal concerns they are.

Concern for the safety and well-being of our children. It has been well documented that the gap between supply and demand for infant child care has reached a critical stage across the nation. Of equal concern is the lack of trained caregivers for ill or temporarily disabled children. Only eight Chicago area hospitals and three downstate hospitals offer in hospital care for noncontagious sick children. Still fewer agencies provide in-home care. When services can be located, the cost may easily be greater than the income of the parent. In Illinois, quality infant care costs range as high as $150 per week, in-hospital care for sick children averages $3.00 per hour and in-home sick child care workers receive $9.00 per hour. To often, parents are financially forced to leave sick children unattended and place infants in potentially unsafe settings.

Concern for the needs of our aging population. America is rapidly growing older. More and more employees are faced with playing triple duty as worker, parent and caregiver to an aging parent. It is estimated that over 1.7 million caregivers of the elderly are employed. Demographers predict the trend will esculate as medical science increases our longevity and the baby boomers move into their senior years.

Concern for the productivity of the American workforce. Productivity experts have long spoken to the effects of family stress on the productivity of the worker. Tardiness, unplanned absenteeism, extended lunch hours and numerous personal phone calls are all documented results of caregiver stress. Less measurable, but equally costly and disruptive, is effect of stress on the ability of the worker to perform at peak capacity.

The Illinois Legislature is now debating a similar measure which would afford many Illinois employees in the private sector equal protection against lost jobs and benefits when family responsibilities call. Senate Bill 1160, currently pending before the State Senate, seeks to establish within the Illinois Human Rights Code a Family and Medical Leave policy applicable to businesses with 15 or more employees. Under the provisions of the proposed Act, effected employees would have the ability to request and receive unpaid leaves of absences for family responsibilities or their own medical needs without fear of job loss.

Drafters of the measure have adopted an equally broad interpretation of the term family, thus allowing the proposed policy's applicability to situations concerning an employee's child, spouse, or parent.

Proponents of the Bill are confident that the Illinois General Assembly will move quickly to provide yet another safeguard to strengthen the stability of the Illinois family.

I would be happy to respond to your questions.

Senator Dodd. This brings to a close our Chicago hearing.

Our next hearing will be in Atlanta, on October 13th.

I want to thank my staff and others again for their tremendous cooperation here this morning and making it possible for us to have this hearing.

For those of you who have been here and would like copies of this testimony, we will be glad to make it available once we have put together our proper reports.

The Subcommittee on Families, Children, Drugs and Alcoholism will come to a close.

[Whereupon, at 1:00 p.m., the committee adjourned subject to the call of the Chair.]

PARENTAL AND MEDICAL LEAVE ACT OF 1987

TUESDAY, OCTOBER 13, 1987

U.S. SENATE,
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Atlanta, GA.

The Subcommittee met, at 9:30 a.m., in Ceremonial Courtroom 2306, Richard Russell Federal Building, 75 Spring Street, Atlanta, Georgia, Senator Christopher Dodd (Chairman of the Subcommittee) presiding.

Present: Senator Dodd.

OPENING STATEMENT OF SENATOR DODD

Senator DODD. The Subcommittee on Children, Family, Drugs and Alcoholism of the Senate Labor and Human Resources Committee will come to order.

I am very pleased this morning to hold this hearing of the Senate Subcommittee on Children and Families here in Atlanta. This completes a series of regional hearings on parental leave the Subcommittee began last June.

We have traveled to Boston, to Los Angeles and Chicago to hear the views of parents, professionals, businesses and community groups. And this morning we will ask witnesses from Kentucky to Florida the same question we have been asking around the country, specifically. What are the costs of to families, businesses and the nation of having parents choose or be forced to choose between their children and their jobs?

Today we will be reviewing a piece of legislation that I consider to be both pro-business and pro-family, the Parental and Temporary Medical Leave Act of 1987. I reintroduced this legislation in the Senate on January 6th, 1987, to promote the economic security of families by providing for job-protected leave for parents upon the birth, adoption or serious illness of a child, and temporary medical leave when a serious illness prevents a parent from working.

Because such leave would be unpaid, I believe it will not add to the deficit nor or to the economic burdens carried by employers. Rather, as some of our business witnesses this morning will testify, parental leave policies can trigger such economic benefits as increased productivity and decreased absenteeism. Yet, as we will also be certain to hear this morning, national business organizations such as the Chamber of Commerce, and the National Federation of Independent Business disagree.

Right before I held the first senate hearing on this issue, the Chamber of Commerce announced that unpaid parental leave would cost employers $16.2 billion. Several weeks after that hearing, they wrote me and changed their views stating that $16.2 billion was just a Worst case scenario. Rather, they now estimate that unpaid parental leave would cost in the neighborhood of $2.6 billion, or some $14 billion less. That is a rather significant reduction.

Such a huge fluctuation in the Chamber's estimates highlighted the importance of getting an independent, objective assessment of the possible costs and benefits to businesses of unpaid parental leave. Thus, Senator Arlen Specter of Pennsylvania and I requested such an assessment by the General Accounting Office. On April 23rd the GAO testified before this Subcommittee that any costs associated with unpaid leave would be significantly less than the $2.6 billion figure now being used by business organizations.

In two weeks the General Accounting Office will report back to the Subcommittee with a cost-benefit estimate of its own. And we will certainly be happy to provide all of the witnesses today, as well as those interested parties with a copy of the final GAO report.

In light of the special problems often faced by small employers, businesses with fewer than 15 employees would be exempted from the provisions of this legislation. According to the GAO, that means that 80 percent of the firms in this country would be exempted. Keep in mind, however, that only 25 percent of the work force is employed by businesses with fewer than 15 workers. Therefore, three out of every four American workers would be eligible for job-protected parental leave under this bill.

It is important that policy makers and members of the public hear all sides of any piece of legislation, and not just the arguments of one particular interest group. For that reason, today we will hear witnesses representing all viewpoints this morning, but we must bear in mind that the most important group affected by this legislation will not be testifying today, namely the one out of every four Americans who happen to be children under the age of 18.

The time has come, I believe, when we can no longer ignore the changing demographics of our work force and its effects on children and families. Today, close to half of all mothers with infants under the age of one work outside the home. That figure has doubled since 1970, and shows no signs of abating. In fact, 86 percent of all women working outside of the home are likely to become pregnant at some point during their careers. I am certain that almost everyone in this room today knows of at least one new mother or father who is trying to juggle taking care of a new infant with getting straight back to their jobs.

The reason for this is rather simple. Women and men are in the work force out of economic necessity. Two out of every three women working outside of the home today are either the sole providers for their children or who have husbands who earn less than $15,000 a year, and given that two out of every three children added to the poverty rolls since 1978 have come from families in which one parent is working full time year-round, it is not too difficult to see the importance to families of having two wage earners.

In short, the wages of both mothers and fathers today are critical to the support of their families.

If you needed any further evidence on that score, you need only look at the rise in two-earner families in this country over the past two decades. In 1966 there were close to 19 million families in which both parents worked. Last year there were close to 29 million such families, increase of over 58 percent. Likewise, in 1966 some 27 millon women worked outside of the home; in 1986 that figure soared to 52 million women, an increase of almost 100 percent.

It is important for us this morning to examine closely the question of which workers are most likely to benefit from an unpaid parental leave policy. Some of the philosophical opponents of this legislation have dubbed it a yuppie proposal because it only provides for unpaid leave. This morning we will hear testimony on this issue from parents at all ends of the pay scale.

We will also hear from the parents of children who have suffered injury or serious illness requiring hospitalization and an extended period of recovery. They will delineate for us the importance in their eyes of knowing that once their child's medical crisis is resolved they will have a job to return to.

Ronald McDonald Houses across the country have been strongly supported by local and nationwide businesses in their efforts to provide shelter at a minimal cost for parents who must travel far from home to procure appropriate medical care for a child's acute illness or injury. Under this legislation, the same businesses that support Ronald McDonald Houses would also have to provide job guarantees for those employees with sick children who must seek shelter in those very Ronald McDonald Houses.

Last, but not least, we will hear from parents this morning who have adopted special needs children. These are the children without permanent homes who have mental, physical or emotional handicaps. They are also older children who are members of sibling or minority groups. Last week a bill that Senator Strom Thurmond of South Carolina and I sponsored strengthening the special needs adoption program was unanimously approved by the Committee on Labor and Human Resources.

We can do everything possible to strengthen the special needs adoption program in this country, but until we make parental leave a national priority, countless prospective adoptive parents will be unable to take the necessary time off from work to adopt in the first place. This legislation would give the same businesses that support special needs adoption a vital way of encouraging their employees to become adoptive parents.

In closing, it is appropriate that this Subcommittee meet here in Atlanta, at the center of the fastest growing region in our country. In Georgia alone, the number of women working outside of the home has increased by more than 50 percent over the past ten years. And in Kentucky, seven out of every ten workers are now women. Parental leave has thus become a pressing issue for countless families here in the South. This morning's hearing is designed to bring the concerns of these families into focus.

Our first witnesses this morning I would invite to join us at the table. They are parents of families, including parents of newborn, adoptive and seriously ill children, as well as professionals who work with them.

The parents—and as I call your name I invite you to come to the witness table—are Beverly Wilkinson, Randy Stewart and Tom Andrews. Beverly Wilkinson is the mother of a four and a half year-old son, Brandon, and, quite simply, she lost her job when she had Brandon.

Randy Stewart is the adoptive father of a six-year-old son, Will. He is also a computer operator at a heating and air conditioning company here in Atlanta.

Lastly, Tom Andrews is the father of two adoptive children. His daughter Melissa is six and a half, and his son Justin is eleven months old. He is also the director strategic planning of the Edwards Baking Company here in Atlanta.

Accompanying them is Martin Luther King III, Commissioner of Fulton County, and representing the Martin Luther King Center of Social Change here in Atlanta. With a sound and strong last name like that I do not have to have much more of an introduction, but as the son of someone who was in public life as well we share that common denominator. We are delighted to have you with us here this morning to share your words with us as well.

I do not know how you would like to proceed, any way you feel most comfortable. Do you want to begin with the parents and then wrap it up, Mr. King, or do you want to go first? Whatever you would like to do.

STATEMENT OF MARTIN LUTHER KING III, COUNTY COMMISSIONER, FULTON COUNTY, GA

Mr. King. I guess I will go first.

Senator Dodd. All right.

Mr. King. Thank you, Senator Dodd.

I am very pleased to be here today to lend my support to Senate Bill 249, the Parental and Medical Leave Act of 1987. I am particularly concerned about this piece of legislation, because I feel that it represents a step in the right direction towards providing some redress for the problems faced by so many of our families today.

As the fabric of American life shifts and changes with the time, economic conditions, et cetera, we are seeing burdens placed on the shoulders of families, often times when there are few resources available to offset the pressure, stress and strain.

One of the most significant changes we have witnessed over the past few years is the increasing number of women that have entered the labor force. As has been said, some 63 percent of American women are now working outside the home, a fact which impacts society tremendously but which has not yet been adequately addressed in terms of the needs of these women and their families.

The Parental and Medical Leave Act is a timely human rights measure that will not only help improve life somewhat for American citizens, but it will also bring us more in line with the rest of the world. A survey of every industrialized nation as well as some developing countries finds that women are guaranteed the following rights: Leave from employment for childbirth, job protection while she is on leave, and the provision of a cash benefit to replace all or most of her earnings. Both parents, in many cases, benefit from parental rights policies and practices.

Why should we not practice what we preach on matters of human rights? Why are our most precious resources, our families, not undergirded by a family support system that works in the interest of sustaining family strength and togetherness?

We are unfortunately still in the throes of antiquated thinking when it comes to the kinds of substantive change that is needed in our social and cultural structures. The civil rights movement and the women's movement, I believe, have offered American society the greatest challenge to such an unprogressive posture. We have won some gains, but the battle must continue. The Parental and Medical Leave Act will significantly assist in our continuing struggle to create a social, political and economic environment that works for everyone.

I believe, further, that the Act will have particular meaning to the black community because we are currently facing serious threats to the stability of our family life. More and more black women are entering and remaining in the job market because they are the sole source of support for their families. Additionally, the extended family, upon which we have traditionally depended for assistance in times of need, has all but disappeared. The nuclear black family, therefore, is the more vulnerable now than ever before because it has to cope with added stresses on its already limited resources.

According to the Urban League, our vulnerability will increase markedly by the year 2000 when some 70 percent of black families will be headed by single women if present trends continue.

A more sensitive and responsible work place would help to ease things a bit, and perhaps make it possible for black workers to participate more fully in the mainstream of American life.

We owe it to ourselves, our children and the future to establish a more solid base of support for our families so that they might survive. As a citizen and elected official I intend to be a part of any efforts put forth to achieve that goal. In addition to participating in this hearing today, I am involved in the National Association of Counties' lobbying efforts to encourage passage of progressive legislation, and as Vice Chairman of NACO's Labor Standards and Employee Rights Subcommittee I will be working assiduously to assure passage of the Parental and Medical Leave Act.

Thank you for the opportunity to speak on this issue today.

Senator DODD. Thank you very, very much for that testimony.

I turn now to our parents. Beverly, I will begin with you. I will proceed in the order that I have introduced you.

Any statements you have, any written statements, will be included as permanent part of the record. So, you can either read those statements if you are more comfortable doing that, or if you can just share your thoughts and experiences with us in your own words, however you feel most comfortable. When I get through hearing from all three of you I will have some questions for you. And possibly, Mr. King, when they get through you might have some additional comments you can make after hearing their comments as well.

Ms. Wilkinson.

STATEMENT OF BEVERLY WILKINSON, PARENT, MABLETON, GA

Ms. Wilkinson. Thank you.

I lost my job when I had a baby. In 1983 I was working for a large Atlanta-based corporation. I was 34 years old and I had my first child.

I worked on Thursday, my son was born on Friday. I took two weeks' accrued vacation time and five weeks' maternity leave that was allowed by my company's written employee policy.

I stayed home until my son was seven weeks old. The Friday before I was due to return to work on Monday, I received a phone call late in the afternoon from the controller telling me there was no need for me to report in on Monday morning, that because of a reorganization of the department my job had been eliminated. I doubted the truth of this statement since secretarial positions such as I held most certainly had not been eliminated, and after five years I was trained and qualified to fill most clerical positions.

The controller told me that the best thing for me to do now was to stay home, take care of my baby and collect my unemployment.

I was devastated, and I felt betrayed. I had invested a big part of my life in this company, I had good employee reviews and I had no idea that my job would not be waiting for me. I can only compare the feelings to those you would experience with the loss of a loved one.

I had been encouraged for five years to think of my company as my family. I had always been told, quote: "we are a family-oriented company" end quote. I went through a mourning period, when in actuality this should have been one of the happiest times of my life.

I felt I was being punished for becoming a mother. After all, other employees had returned to their positions after taking leaves of absence for other reasons such as a hysterectomy, a mastectomy and, on one occasion, a trip to Europe.

Looking for employment is never easy even under the best of circumstances. Child care is expensive. The average child care cost in this country is $3,000 a year. That is hard enough to pay when you are working, it is impossible to pay when you are not. You cannot go on a job interview with a baby on your lap.

I turned to the EEOC for help, and they have been trying to help me, but it has been a long, slow, painful process. It took three and a half years to get a ruling on my charge. As it stands today, my child is four and a half years old, I have not been reinstated to my job, nor have I received any type of compensation for my loss. This three and a half years would have been eliminated had there been a federal parental leave policy.

Starting over is hard, but in this time two incomes are necessary for a family.

I do not think a woman should have to choose between her job and becoming a mother, and a couple should not be punished for becoming a family.

Senator Dodd. Thank you very much, Beverly.

Mr. Stewart.

STATEMENT OF RANDY STEWART, PARENT

Mr. **Stewart**. I am Randy Stewart, this is my son Will who will be six this next week.

I am an adoptive father who took unpaid parental leave upon the arrival of my son. That special time for us together was delivered when my wife, Susan, and I felt this was a very important time. Susan and I felt strongly enough about this special starting time together that had it not been possible for us to take this leave we probably would not have chosen to have a child, or we would have sought a different employment.

As an adoptive family, I think there are some special advantages and needs concerning parental leave. If Susan and I had chosen to have a biological child rather than to adopt, we would have had nine months to prepare for the arrival of that child. As adoptive parents, we were called late one evening and Will was in our home in less than a week. Part of our time off together was used in simply gathering all the physical paraphernalia necessary to have a new child.

Biological parents also have the added benefit of knowing how old their child will be, and often now the sex. All we knew is somewhere probably in the next six to twelve months birth to a three-year-old child would become part of our home. That is very hard to prepare for in advance.

When Will arrived in our home, he was six months old. During that six months, Will had been in three temporary placements. We were especially glad that we would all have this extended intensive time together for Will to settle into our home. At six months old, Will already had a personality of his own, ways he did not and did like to do things, and pretty much of his own routine.

We were grateful and applauded ourselves for having taken the crucial time for bonding and knowing one another as a new family.

Since we did not know Will's age until a week before his arrival, we were unable to make advance plans for his ongoing child care. The child care needs of a newborn are much different than those for a three-year-old, so we had no time to get ready for that, and we spent some of our time, some of our parental leave time just making child care arrangements.

In many ways, parental leave for us was a treasured once in a lifetime opportunity. We were together there just getting to know each other for almost a month. Probably never again will we afford ourselves that amount of extended quality time together.

After Will had been with us for only a month I had already spent a longer block of time with him than was ever afforded my father in the 18 years that we lived in the same home.

I am thankful for that time, it has been a very intentional part of my life to know this child, and not just to raise him, and the time I spent with Will during the parental leave was a solid foundation for the beginning of our lives together.

Senator **Dodd**. Thank you very, very much for that testimony.

Tom, we welcome you. I think there is a microphone down at that side, or either end, whichever is easier for you.

Mr. **Stewart**. Let me just pass this down.

Senator **Dodd**. Fine.

STATEMENT OF TOM ANDREWS, PARENT

Mr. **Andrews**. First I would like to introduce my family, my wife, Joyce, and since they were not able to come because she works and the children are in school——

Senator **Dodd**. Do you carry these around with you all the time?

Mr. **Andrews**. In my pocket, yes. [Laughter.]

Mr. **Andrews**. I thought it was better to bring those [photographs] than bring the children, we could have had a mess here.

But I thank you for the opportunity to appear before this Subcommittee, and I would like to let you know that personally I support your bill.

I am here for two basic reasons. One is the interest of equality for adoptive parents. The other is a need to share a story here.

First I would like to tell you a little bit about my children, Melissa who is six and a half years old, and Justin who is eleven months old. Both of them came from Korea, and we waited a long time for them. Because they are both adoptive, they are really the most precious things to us than we have ever had before.

When you are denied something you want it so badly that the ability to share love, to help contribute to the growth of others means a great deal to you, even more so.

We had to work very hard for the blessed gift of these wonderful children, and they were not just a mistake or something that was just left on our doorstep.

Previous to adopting, we went through ten years of medical testing in order to have children of our own, and I say that in quotes because in many cases parents think that the only people that they can love are physical children of their own, and that is definitely not true. We are seeing more and more cases of that now. We realize that there are many unfortunate children out there that need love and affection.

The problem I believe with society is that they are only beginning to realize what a family is, that it is individuals sharing love, helping each other and being there when you need them. It is a bonding process.

This bonding process comes naturally with the physical birth process. When a mother and child are separated, though, an enormous emotional void occurs, and no company either my wife or I have worked for have been willing to recognize this family unit as an adoptive family unit. Only when forced to recognize women's rights do they allow for medical leave for the birth process.

What about adoptive parents? What do they overcome, how do they overcome that emotional void that children have after being separated from the birth parents? How do we establish that bond that is so important early in life?

We have worked very hard and sacrificed even more I think than a natural birth parent, which means leave from work without pay, it was obvious—it obviously places a financial strain on the family, but we think it is necessary to establish our family.

We received Melissa six years ago this past August, and we still celebrate that day as if it was a birthday. It is a very special day for all of us. That day is—the receipt of Melissa is very clear in my mind, and it stands—I was standing outside the air lines in Minneapolis at the gate waiting for this beautiful girl to come outside. It was the same feeling that friends have conveyed to me about their hospital delivery room experiences.

But then came the work to establish a family, the trust and the love. This was especially true with Melissa because she had been in an orphanage for six months with no cuddelling, no physical development, no love. In fact, she was approximately four months behind in development that a normal child at six months would have been.

Like other couples starting a family, it was an expensive process, but my wife took an unpaid leave of absence for three months to be with our child. Fortunately, she had a very understanding immediate superior in order to get that leave.

I then after her leave was up took a two-weeks vacation, and it was the most incredible time of my life. The special bonding, the closeness that I established during this time, I experienced what only mothers are traditionally privy to.

I am not there in my feeling to share just a pay check, but I am here to share love, experience, joy and pain with my children.

Even though people at work thought I was crazy for taking a wasted vacation babysitting, it paid off. My daughter and I have an incredible relationship, plus the hard work has been rewarding for her.

She entered first grade this year with the ability and the intelligence of a third grader, and I believe that is a direct result of our work with her.

My son is a slightly different circumstance. The only bonding that I have created with that child thus far has been a one-on-one when we flew to Chicago and back with him to Atlanta, two strangers in a strange place on an airplane, not the best circumstance in developing a relationship.

My wife again had taken leave of absence to establish this trust, love and family bonding process. I was unable to do so, since I had just returned to employment after being RIFed by a major consumer package goods company here in Atlanta. Even though I try to spend as much time with Justin as possible, I have missed that very important bonding process. I do not feel the closeness with Justin as with our first child. I am working very hard at it, but it is not as effective as taking that time off and now, of course, Joyce is back to work as many other dual income families have it.

Justin spends most of his day with a sitter who is significantly affecting his life. Fortunately, we are able even under financial strain to provide a bonding period for the mother and the child. Some do not have that luxury.

It is so difficult today to grow up, it is too fast, it is too complicated, it is drugs, peer pressure, sexual diseases, they are learning things in first grade that I did not learn until I was in third or fourth grade now.

Many families have two working parents relying on day cares and schools to teach their children. That is why it is so important to establish that family bond early in life, so let us not discriminate between the physical birth and the adoptive families.

They are all families God placed together, and we ask that you please provide all with the opportunity to create a lasting family.

You and I both know that if left to the business world nothing but profits would ever be developed, so we are asking that you give us a chance and you give our children a chance.

Senator Dodd. Thank you very much, Tom, for your testimony.

Just a few questions. First, I thank you both for coming down here this morning and, Will, it is nice to have you here with us this morning. Have you got any testimony you want to offer this morning, Will? [Laughter.]

Senator Dodd. I bet you do all the time.

At any rate, these are important questions, and we will hear later from the business organizations that raise some legitimate points. Obviously I feel strongly about this kind of legislation. There are only a handful of employers out of some six million in the country who provide any kind of assistance with child care, a related issue. In many instances I find with respect to parental leave that in the smaller firms where people know each other there is never a problem. If an employer knows a person working for him is being confronted with a difficult set of circumstances, they usually can work it out. It is where people do not know each other that well and we are confronted with a specific set of rules and regulations that there is a problem. Where people lose their identity in a sense as human beings, then those rules and regulations become most harsh.

Let me go to you, Ms. Wilkinson. How big was the firm you worked for?

Ms. Wilkinson. It is a major corporation here in Atlanta, with branch offices all over the United States.

Senator Dodd. So it is a large operation.

Ms. Wilkinson. Yes.

Senator Dodd. And you are convinced that the reason that you lost that job was because of the time you had taken off for that child?

Ms. Wilkinson. Yes, I am.

Senator Dodd. Was there a maternity leave policy? What happened with that? You mentioned you were on maternity leave.

Ms. Wilkinson. Right. There was written policies that broke it down from maternity leave, military leave and medical leave, and the way I understood it—I do not have a copy of it now, but when I read it in the book I would be allowed 90 days before and 90 days after the birth. Of course, this is unpaid, of course, but that was what the company policy allowed on maternity leave, so I felt very secure in taking my five weeks.

Senator Dodd. But you were told afterwards the job was no longer there?

Ms. Wilkinson. Right.

Senator Dodd. And you are convinced the reason that occurred is because you had taken the time off to have the child?

Ms. Wilkinson. Right.

Senator Dodd. Mr. Stewart, what was your experience with your employer? You took some part-time work and you reduced your hours.

Mr. Stewart. Right.

Senator Dodd. Do you want to share with us the experience with your employer.

Mr. **Stewart**. It was pretty simple with my employer. I worked for a small nonprofit corporation at the time, and so I had a lot of support, and what I did—and basically what we as a family did, I took about a month off completely to spend with Will and all, and then after that for the next—one of the reasons we were willing to take that short a time, my wife and I together, was that for the next two years I worked part-time and stayed with Will in the afternoons, and this would not be the end of our time together, except for getting people up and getting people to bed and all, so that was one of the reasons we were comfortable with that amount of time.

My wife, she was working for a large corporation, and so she kind of took what she thought she could get away with. She took her vacation, she took her sick leave, and that all totaled up to just almost a month for her, and she felt that was just wise, it was not pushy. Just taking that much time off at one time together was about as far as she could go with that, so that was her experience with it.

Senator **Dodd**. So there is no maternity leave or parental leave in the firm she is working for?

Mr. **Stewart**. There was nothing to deal with adoptive parents at all. There was a maternity leave policy. It was a new company in this country, even though it had been lots of other places for a long time, so they were just at that time introduced to those kind of things, and they were just getting the maternity leave and all together. No adoptive leave.

Senator **Dodd**. How big was the nonprofit organization you worked for?

Mr. **Stewart**. At that time there was fewer than ten of us.

Senator **Dodd**. Fewer than ten, but there was not any concern at that time about your taking a month off. I presume you made the decision to take leave before you made the decision to work only half-time. What was the concern raised by your employer in that situation about the workload and the like?

Mr. **Stewart**. We just really did not—you know, it never came up in that we knew that the work could get done, you know, that others could cover it. You know, I was available on the phone, Will and I would go up there once a week, you know, just check in and see what was going on, if there was any emergencies and all that, but it just was not a significant problem. I did all the bookkeeping, the computer work at that time, and we just made it through that period of time. It was something important to us and, you know, everybody worked together to get that done.

Senator **Dodd**. Were you the first person in this particular operation to have taken any kind of parental leave?

Mr. **Stewart**. I was the first one to take that long, yes.

Senator **Dodd**. What has been the experience with your firm? Have others taken advantage of the policy and been given that kind of leave since your experience?

Mr. **Stewart**. Everybody had the opportunity to take that leave. The company now I still think has a very liberal policy about leave, time off. And mostly then it was just men, and now the majority of the people in the company at the place now are women, and I think everyone—there have been several babies—everyone has had cooperation in taking time that they needed with their new family.

Senator DODD. I think it is important you raised the point about adoption, because you are right—most of the company policies or state statutes and so forth in this area cover only birth. You heard me in my opening remarks talk about the special needs adoption legislation that my ranking Minority Member of this Subcommittee, Senator Thurmond helped me get through the committee unanimously. And, I would predict to you this morning that the bill will pass unanimously in the Senate. No one will object or oppose special needs adoption legislation. It is just something everyone supports.

As I said, those are the hardest to place kids. We are talking about older children, children with particular physical or mental disabilities of one kind or another. These are the children that no one really wants to take on because there are tremendous burdens associated with them. You would be hard pressed to find an adoption agency in the United States who will allow a family to take one of those children without one or both parents taking at least four to six months to be home with that newly adopted child. That is what agencies require because of the tremendous problems those special needs children have.

Of course, the interesting irony is that most people who apply to adopt special needs children are from lower to middle income families. It is not the most affluent families in our society who take on these children. It is a great blessing families do adopt these children, giving them love and affection and just the human element that is involved in special needs adoption. Again, it is somewhat ironic perhaps ironic is not the right word to use—but it is worth noting the contradiction between complete Congressional support for special needs adoption and lack of support for parental leave. Every conservative, every liberal, every moderate, every Republican, and every Democrat will give speeches about this wonderful thing we are doing by enacting the special needs adoption legislation. Yet we turn around and try and create the fact situation where those children can be adopted and people cannot lose their jobs in the process and it becomes extremely difficult. So I think your point about adoption is extremely well taken.

I am delighted you brought Will here with you today. Will, we will receive your testimony later. You can write it out for us and send it in.

Tom Andrews, again, you had an adoption situation, and your testimony speaks for itself. Why not tell us a bit about your firm? It is a large firm, or a small firm that you are with?

Mr. ANDREWS. The first child was with a large firm in Minnesota who I understand now has a state bill very similar to what you are introducing here.

Senator DODD. That is correct.

Mr. ANDREWS. Of course, my concern is largely with adoption and the fact that there is not the equality as there is with the natural birth parents, and I do not see the difference there. A family is a family, as was stated here before.

Currently the firm I am with is a small firm of about 200 people.

Senator DODD. Do they have a parental leave policy?

Mr. **Andrews**. Yes, sir, they do.

Senator **Dodd**. They do at this point?

Mr. **Andrews**. But not for adoptive parents.

Senator **Dodd**. Not for adoption?

Mr. **Andrews**. That is right.

Senator **Dodd**. Just for newborns. What is the period of leave time to cope with newborns?

Mr. **Andrews**. I believe it is 90 days.

Senator **Dodd**. 90 days. Mr. King, again you heard the testimony of these people. What is happening on the local level? I have heard from state legislators that a number of states are considering legislation. My own State of Connecticut adopted a parental leave policy for its state employees but it does not reach into the private sector at all. What is your sense of what is going on out there at the local level, and how should we proceed? I mean there are those who say "Look, there are six or seven states that are moving to this arena already, why don't you just sit back in the federal government and let the states continue to do it, or county governments, local governments, rather than trying to have a national law in this area?" How would you respond to that?

Mr. **King**. Well, first and foremost I would like to say that one of the things that I have seen historically take place is that when a statute or when a law emanates from the federal level that states generally follow suit, so I first want to continue to commend you for this hearing because it is so important to our society, and I do believe that because of the process of going through state legislatures being a long process once it is initiated at the federal level it will trickle down.

In addition, this type of legislation as it relates to business I think strengthens not only the family unit—first of all, it is going to strengthen the family unit because of the fact that parents are spending quality time with their children. Many times, too, they feel like they are neglected, and they do not realize that they actually feel that way until later on in life, and so these very delicate years are so important to parents spending quality time, and especially when a child is being born or has some kind of physical problem of some sort.

So the other thing that it also would do in my opinion is to strengthen loyalty to business entities. Just as has been stated this morning by Ms. Wilkinson, had she been able to come back to her job and she felt this policy was the policy of the company, I am sure that she would have really been strongly loyal to that company, but it created a negative situation for her, and I am sure many of us, so I again finally want to continue to commend you, and I am going to do all that I can as I have stated at our local level to ensure that legislation of this type also is at the state level.

Senator **Dodd**. That is very helpful.

Lastly let me just ask the two fathers here, Randy and Tom, did you get counseling and advice prior to the adoption? Did you speak to anyone besides representatives of the adoption agencies you were dealing with? Did you work with any medical people at all prior to the adoption not in terms of having biological children, but in terms of preparation for a newly adoptive child? Did you get any advice on that score.

Mr. **Andrews**. We had gone through our church and talked to some people at the church. We have not gone to any medical people. I am not sure what the medical people would have helped us with.

Having ten years of waiting prior to the child, you learn a lot about children, your interests center around children a little bit more. And the agency we worked with is a social agency as well. In other words, they follow up after the children—and Koreans do not work with agencies here in the United States unless they follow through after the children have been adopted, because that is just as important. There are many discriminatory things, many problems in family situations that may occur after the child has been adopted.

Senator **Dodd**. The reason I raise it is because I mentioned to you earlier the need for leave for special needs adoptions. Obviously I think that is self-explanatory: children with problems coming into a family situation make the need for that period of leave time important. You mentioned—I think it was you who mentioned the fact that even a child who was six months old had only reached the developmental stage of two months because of the absence of that bonding and warmth.

Mr. **Andrews**. That is right.

Senator **Dodd**. I wonder if you received any counseling at all about the importance in those first weeks and months of welcoming a newly adoptive child, one without any physical or mental handicaps? Had you received any advice as to the amount of time needed to spend for the bonding period? That is what I was getting at.

Mr. **Andrews**. We did after we got the child. Like I said, before this we had been working with the agency's social workers to prepare us for this change in our life and what might occur, because you never know—we had only seen a picture of this child, so you never know what the child is going to be like when you get the child, so they prepare you for worst cases as well as normal cases.

Once we receive the child, of course, you immediately take the child in and get some medical counseling on where the child should be, what is wrong with it, what is right and so forth.

Senator **Dodd**. Randy?

Mr. **Stewart**. We had read a lot and talked a lot about the bonding process. Since we were adopting a child, we did not know how old the child would be and, you know, we heard a lot about the critical months being four months, six months, you know, right in there, and we got Will at the tail end of that, and who knows—you know, he is a wonderful child and he loves people. You know, they say all that will pop out when he is seven or fourteen and you will say "My God, where did that come from?" Well, it is because it is because we missed that, you know, may have missed some of that bonding, you know, back in those early months. Right now we just do not know.

You know, it is hard to believe, but in Georgia and DeKalb County this was a hard to place child because of his mixed racial background, and so I appreciate the work you are doing with special needs children.

Senator **Dodd**. You seem like a pretty lucky guy, you have a pretty good companion there.

Mr. **Stewart**. Yes.

Senator **Dodd**. Well, I thank all of you for coming this morning and taking time away, I know, from busy schedules. But it really helps us. I think too often we have hearings with only professionals as witnesses. As you have seen it is easy to have professional people testify who are really wonderful and do know an awful lot. But I think sometimes what actually goes on with the families in real life situations gets lost in such data and statistics and everything else. Obviously you both are representative of the problems a lot of people face in trying to make those choices and accommodate it.

And I think it was you, Beverly, who talked about the fact that we are one of the few countries left in the world without parental leave. Our chief competitors have parental leave policies. Some of the poorest nations in the world have parental leave policies, and all the NATO nations have parental leave policies. If I hear one more politician give a speech about the American family—you know, it is a wonderful speech to give. But when it comes down to actually trying to pass legislation that may encourage and make it possible for those families to be together and to become stronger entities at a time when the stress on them is unlike anything we have ever seen in our past and politicians balk, and then I find it somewhat difficult to believe the sincerity of those speeches. So your testimony here helps tremendously.

We thank you for coming by this morning, and you are welcome to stay and listen to the other witnesses if you would like. If not, we understand you have busy schedules. Thank you very much.

Mr. **Andrews**. Thank you.

Mr. **King**. Thank you.

Ms. **Wilkinson**. Thank you.

Mr. **Stewart**. Thank you.

Senator **Dodd**. Our next panel of witnesses deals again with children. I will read your name and ask you to come forward.

Susan Carol Cobb and George Yandle. Susan lives with her family in Olive Branch, Tennessee, the mother of a month-old baby, a little boy. Last January she and her family tragically lost a daughter to leukemia. We are grateful to you for being here this morning.

George is the father of three children, resides in Marietta, Georgia. He and his wife also experienced a serious illness of a child. His youngest daughter, Dixie, is now undergoing treatment for cancer. Dixie is eleven years old.

We thank both of you for being with us this morning.

We are going to ask as well to join us up here Dot Holland who is the Director of the Department of Social work at Henrietta Egleston Children's Hospital here in Atlanta. She has been working in children's health for the last 17 years. She has been at Egleston Hospital for a decade. Last year she was president of the Georgia Society of Hospital Social Workers, so she has many years of experience in working with the seriously ill children.

And lastly Joseph Patterson, Dr. Patterson. Dr. Patterson is a member of the American Academy of Pediatrics here in Atlanta.

Dr. Patterson is a professor emeritus at Emory University School of Medicine and medical consultant at Egleston Children's Hospital.

We thank all of you for being here this morning to be a part of this hearing.

I am going to begin if I can in the order that I have introduced you. We will begin with you, Susan. You have come a long way to come over from Tennessee and to be with us this morning. I want you to know how much I personally appreciate it, how much the other members of this committee appreciate your coming out and talking, particularly in public, about some things you have done, so we thank you for being here.

Again, like I told the last panel, we will accept your statements and make them part of the record. Feel free to proceed in any way you are comfortable.

STATEMENT OF SUSAN COBB, PARENT, OLIVE BRANCH, MS

Ms. Cobb. My name is Susan Cobb.

Senator Dodd. Would you pull that microphone close to you so we can hear you? That is it.

Ms. Cobb. I am going to sound so Southern over here.

My husband, Steve, and I live in Olive Branch, Mississippi, which is a small town on the Mississippi-Tennessee line.

Senator Dodd. I had Olive Branch, Tennessee. I apologize.

Ms. Cobb. It is right there.

Senator Dodd. If John Stennis could hear me now. [Laughter.]

Ms. Cobb. We have two children, Tyler who is three and a half, and I have a newborn Leslie who is a month old. Unfortunately, my husband could not be here today. Although the story I am going to tell is about what happened to him, it really is about our entire family.

Three and a half years ago, on January 17th of 1984, our daughter Kristen Ashley was diagnosed with leukemia. She was only two and a half at the time. Fortunately, we lived just 40 minutes away from St. Jude Children's Hospital in Memphis, one of the best treatment centers in the United States. She was initially hospitalized for a month and a half for induction treatments, which is a very tough treatment where they try to induce remission of the cancer cells.

I would stay with her in the hospital all day, and go home at night to sleep and to nurse Tyler who was just a month old at the time.

Steve was working as a manager of the Memphis branch of Auto-Chlor Systems which is a national dishwasher leasing and sales company. Steve usually worked ten hours a day from 7:00 a.m. until around five. He was only required to work about eight hours a day as a manager, but he just was real conscientious and wanted to be there when his men were. His office was a three-minute drive from St. Jude, and he would visit us for an hour each day that we were there at lunch and, if he could, we would come for a few minutes during breaks if he was out driving to or from the office on call. After work every day he returned to stay with Kristen all night. Occasionally on her worst days he would take a vacation day from work, but I do not think he took more than one or two of those over the course of the two and a half years.

Kristen was hospitalized several times over the next two years, and we worked out the same schedule, I would stay with her during the day and Steve would spend the night with her at the hospital.

In October of 1985, about a year and a half after we started, Kristen had a major relapse, and in mid-December the doctors told us we were going to lose her.

I do not tell this often, especially in front of so many people.

On December the 18th we returned to the hospital, and the doctors thought that she only had a few days to live, so Steve told his company how sick she was and that he would be at the hospital if they needed him. They said it was fine, he still had vacation time left that year.

She was a fighter, the doctors were very surprised that she lasted on into January. Steve stayed with us the entire time at the hospital. The doctors required—they wrote a letter to the company and required that both of us be there with her.

On January the 1st he started using his vacation and sick time for the next year, and a few days later he received a letter from the company saying that as of January the 23rd at 5:00 p.m. he would be on leave of absence because he would have used all of his vacation time for the year. They asked him at that time to return the company car and surrender all the company credit cards. We could not believe that they would send us such a letter at the hospital.

Our daughter was dying, and we knew that that was just—even though they were not saying it, we knew that he was losing his job.

Excuse me.

Senator DODD. That is all right.

Ms. COBB. Kristen passed away on January the 30th. She was only four and a half years old. Emotionally we were drained, and words just cannot describe how we felt. Our family was completely torn apart. My husband was doing everything he could to help us get things back together, to live as normal a life as possible.

When Steve went back to work in early February he was told that the only position open for him was a sales position, which meant that his pay was going to be cut in half. He could not believe it. He had been with this company for over ten years, he had started at the very bottom, risen up through the ranks to the top position the company had which was manager of their Memphis branch, but because we had put our child before his job he was penalized.

The guy that told him that that was all they had open for him at the time, I think he expected him to quit when he told him that because he just sat back, he sat back in his chair and grinned at him and told him "Take it or leave it," and we felt that we had hit rock bottom.

Steve had no choice but to stay at the job because I was not working at the time and we needed an income, and he did not have the emotional energy to look for another job. About one month later Steve was terminated. His dismissal statement which I have said that he had been out on personal business for most of December, or part of December and all of January, and that he was not performing up to expected standards, which they never told us what expected standards were.

He was totally devastated, it was very hard on us, and luckily we had family and many close friends nearby that literally carried us through this period. Steve was out of work for five weeks, we went through almost all of our savings, and then another national company, Economics Laboratories, called him on the phone and asked him to go to work for them. This was a real blessing.

They knew of Steve because he worked so closely against their company, and because of his reputation in the business they called him and offered him a very, very good job.

Senator, people who have not lost a child have no idea what it is like and how it feels. Mothers and fathers have to be there for their child, and for each other. I know that my husband would tell you that being with Kristen and myself during her last weeks was more important than any job.

Thank you for allowing me to tell our story.

Senator DODD. Thank you very, very much. I want you to know how much we appreciate it. It is not easy, I know. It makes a great deal of difference, though, to have someone here to talk about those things.

George, we appreciate your being here today.

Mr. YANDLE. Thank you.

Senator DODD. Do you want to try and share the microphone there with Susan if you can?

Mr. YANDLE. I have a little bit of a hearing impediment, so I have a tendency to speak a little loud, so I probably will not need it.

Senator DODD. That is all right.

STATEMENT OF GEORGE YANDLE, PARENT, MARIETTA, GA

Mr. YANDLE. Senator Dodd, I like Mrs. Cobb would like to tell you that I appreciate an opportunity to tell you about what happened to me in my little world.

As you know, my name is George Yandle, I live here in Marietta which is a suburb of Atlanta. I have a wife Vicki, I have three children, Renee, who is 20, a son, Edward, 17, and Dixie who is eleven, and it is a real strange thing when something like this happens to you because all of my kids have always been very healthy, and I have always been very fortunate that I always excelled in my sales positions and things that I have done.

But in January of this year my little girl Dixie was diagnosed as having a synovial scaroma, which is a soft tissue cancer that occurs in the joint areas. This occurred in the left leg knee area. Of course, she wound up having it amputated about two inches below the pelvic area. And, this was a real devastating thing to us, because we had never been around anything like this.

The doctors felt that they had gotten all of the cancer to the best of their knowledge. Dr. Whiteside at Emory University made a comment that God did not give him microscopic eyes, he wanted her to go under this two-year chemotherapy program, and it is a real, real rigorous protocol. It is really a bad thing to see a child go through this, especially an 11-year-old girl when they lose their leg, lose their hair. You know, it is tough.

Her chemotherapy treatment consists of five days with a three-week break, then another three days with a three-week break, and then she has to go to the hospital for another three days because one of the particular drugs she is receiving is real damaging to the kidneys and everything, and they have to more or less start injections so it will not remain in her body too long. Of course, all of these chemotherapy treatments are real, real sick—you know, they make you real sick.

Of course, my wife Vicki, has rheumatoid arthritis and there is a couple of these drugs that makes a child just lose all her muscle tone. Many times I have had to carry Dixie out of the clinic in my arms to the car because she could not walk.

I am a car salesman, and Mitchell Motors seemed to be very understanding about this. Of course, I had always been either one, two or three in total sales for the three or four years that I worked there, so I guess they went along with me for that reason more than anything else.

But my wife was working at a furniture store as a saleslady, and she had to quit her job and, the manager there told everyone that she worked with that she was fired and that was because she was lying about taking time off because she was telling her that her daughter had cancer, and she just could not understand that, so she fired her for lying to her about the cancer.

Of course, Mitchell is a very large dealership in Atlanta, and it is a special type of job, better than most car sales jobs and, you always have to work 60, 70 hours a week in the car business to make a good living at it, but, you know, I took a lot of time off because I had to be there because Vicki is even more emotional than I am, and Dixie is tough on her, so I worked as many hours as I could.

You know, sometimes when she would be out of the hospital and just weak I would like to go over on Sundays and work, and try to maintain some sort of a steady flow of sales because, I work on commission and I wanted to be there as much as I could, too, and of course, running back and forward with the chemotherapy, trying to sell cars and running X-rays down, things like that, but there is a lot of stress to this.

You meet parents—I run into several parents who lost their jobs. Parents talk a lot when they are waiting for their children to have chemotherapy. Several times I ran into people who experienced the same thing that I did. Seems like they understand at first, but all of a sudden they do not understand when they find out it is not going to be just a two or three-week thing, it is going to be a duration. You will get replaced—no matter how good of a salesman you are, you will get replaced.

One particular time I even wound up in the hospital myself because of the hours I was working and the pressure I was under. They thought I had had a heart attack, they put me in intensive care for three days. They found out it was just stress-related. It caused me to pass out.

In May of this year I was fired from the job, and the pink slip said it was due to lack of sales effort resulting in poor production and I really could not accept that. My boss even told me that he and I both knew it was because of Dixie that I was losing my job, because I had put my family in front of my job, which is probably something they did not appreciate, I guess, because maybe they did not have kids of their own, I do not know why, but I would do the same thing again.

It took me a couple of months to find another job. I do not make but about 50 percent or even 40 percent of what I was making and I spent all the money that I had saved while I was looking around because in May-June it is a tough time in the car business, so it is a little tough to find another job.

I never did realize like I said a while ago, since I have never been involved in anything like this I did not realize how people seem to say one thing and do another, and I had always had a basic feeling that people were good and very understanding, because I always was like that, but I found out that is not true.

Again, like I said, I run into a lot of people, especially construction workers—serious illnesses do not pick out certain people, all walks of people have the same trouble, and it is nothing uncommon to go to a clinic and talk to another father and find out that he lost his job because he was with his child during a serious series of operations or things of that nature.

I guess that is about all I have to say, and I appreciate the opportunity to get to tell you.

[The prepared statement of Mr. Yandle follows:]

United States Senate

Committee on Labor and Human Resources

Subcommittee on Children, Family, Drugs and Alcoholism

Hearing on S. 249

The Parental and Medical Leave Act

Atlanta, Georgia -- October 13, 1987

Statement of George Yandle

Thank you Senator Dodd for this opportunity to testify here today. My name is George Yandle. I live in Marietta, Georgia with my wife Vicky, and our three children, Renee, age 20, Edward, ago 17, and Dixie, who is eleven.

All of our children had been very healthy growing up -- until a few months ago, when all of our lives drastically changed. In January of this year Dixie was diagnosed as having synovial scaroma, which is a soft tissue cancer in the area around her left knee. It was a real blow to us. Her leg was amputated, about two inches below the pelvic area.

The doctors thought they had gotten all of it but started her on a very rigorous chemotherapy protocol, that will last for two years. She's on a three week regimen -- she gets chemo treatments every day for five days in a row, then she has a three week break, then she has another three days of treatments, then another three week break, then she must be hospitalized for the final series , which can be very damaging to her kidneys. Three weeks later, this starts all over again.

My wife quit her job when Dixie got sick. She was working as a saleswoman at a furniture company. I was a car salesman at Mitchell Oldsmobile, a large dealership in Marietta. I had been there for four years, was paid straight commission.

I took time off sporadically - more at first. When Dixie was having treatments, I would work 25 or 30 hours a week. When she was at home, but still very weak, I would work 40 - 50 hours a week. Usually I worked 60 or 70 hours a week. I would go in Sundays. It was tough. I sometimes felt guilty that I couldn't work. But I didn't have any choice. I had to be with Dixie at the hospital. My wife Vicky has rheumatoid arthritis -- she can't life anything - she couldn't carry Dixie to and from the car. The first few weeks were especially hard for Dixie. Some of the treatments, like the bone marrow treatments, were so painful that you could hear her screaming up and down the hall.

Chemotherapy is very hard on a child, both physically and emotionally. And the side effects are very severe. Dixie gets nauseous for days after her treatments, loses a lot of her muscle tone and gets very weak. It's difficult for the entire family. It's been especially hard on my wife. You can imagine what it's like for a mother to watch her daughter lose a leg and then go through chemotherapy day after day. All of us were leaning on each other -- I had to be there for them.

The stress was unbelievable -- running back and forth between work and the hospital. As you can imagine, it's very depressing to go to the chemo clinic - you really see that people have much worse problems than you do. You get to know the parents and the kids. The hardest part is you see a child who looks healthy one day and then you go back the next week and they're having a memorial service for him.

All of this got to me - I passed out one day and was put in the hospital for five days. I was in intensive care for three days. They thought it was heart related but it turned out it was just stress. I was lucky.

I worked hard. Then in May, I was fired. The pink slip slip said that it was due to lack of sales efforts resulting in poor production. I couldn't believe it. It seemed so cold-hearted. They knew that Dixie had been very sick. And, that month I was number three out of fifteen in sales. For the entire time I was working there, I was either first, second, or third in total income each year.

It took me two months to find another job -- that was the slow time of year for the car sales business. When I finally found a job I had to take a 50% pay cut. But my new bosses are very sympathetic about my need to be with Dixie at the hospital. They really understand -- they even make me feel good about it.

Now we live day to day. Nothing in our family takes precedence over Dixie's health. Senator, when serious illness strikes your child, you can't think of anything else except saving your child's life. You don't think about your job or about money, unless you're not a human being. You don't have time to negotiate for time off.

I have always had a lot of faith in the basic goodness of people. Perhaps the hardest thing I have learned from this experience is that all people don't act like good human beings all the time. I have also learned that what's important is not what you say, but what you do. I know that many people will tell you that they would be sympathetic to my family's situation — that all employers are flexible. It just isn't true.

Thank you for listening to my story. I hope that by speaking out, I will be able to help someone.

Senator **Dodd**. George, I appreciate your taking the time to tell me.

As you point out, I think sometimes people think we have to scrape around to find a few witnesses for these hearings. Our problem is we could fill the next week with witnesses in every city and every area we have been to. This is not isolated. That is one of the difficulties we have in trying to convince people, but you hit it right on the head, unless it hits you people do not know. It is not the kind of thing people will talk about with other people, and it just hits hundreds and hundreds and thousands of people in this country.

You know, I disagree with you on one thing. I think people are pretty good and, given the chance they will be. They try to be. A lot of times they just cannot imagine what other people are going through until it hits them or happens to one of their children, or happens to someone they know, or a neighbor or something and then they begin to appreciate it. You cannot tell me that this country, as strong and as wealthy and as rich and as productive as we are, cannot be far more compassionate when it comes to families, particularly families where they have got a child that is dying or that is sick or needs help. I just do not buy that.

Frankly, I wish we did not have these hearings, I wish American business and industry understood it and we did not have to go through legislation to do this kind of thing. It should not be that way.

We find ourselves in that situation and have waited for years to see something happen, and a fraction, only a fraction of businesses will do anything at all in this area, and they complain because it is a mandated program. My Lord, we have mandated programs on child labor laws and minimum wage. You are going to hear from a lot of good businesses who have done a lot of good in this area, and some of the most successful businesses in this country have had parental leave, maternity leave programs and child care programs, and they do not lose a nickel, and in fact they will tell you how much money they make as a result of it, so we will hear from all sides.

Anyway, I did not mean to editorialize there, but I am just very proud of the fact that the two of you are here. I think everyone here in this room—I know I really appreciate how difficult it is to tell a personal story in front of a lot of people, but I cannot tell you how many people will hear this story who have gone through just what you are going through, and we appreciate deeply that you are willing to take that time and to go through the anguish of repeating a story like that.

Dot Holland, you have been working in this area for a long time, and we are very grateful to you for coming this morning, and then we will hear from you, Dr. Patterson, and just a few questions for you and we will let you go.

STATEMENT OF DOT HOLLAND, DIRECTOR, DEPARTMENT OF SOCIAL WORK, HENRIETTA EGLESTON HOSPITAL, ATLANTA, GA

Ms. HOLLAND. Thank you. As Senator Dodd said, my name is Dot Holland, I am Director of Social Work at Henrietta Egleston Hospital for Children.

In addition to being a teaching hospital, Egleston is a regional tertiary treatment center. Because most of our children have very serious health problems, their parents are under a tremendous amount of stress. When a parent is faced with the additional stress of the threat of losing his or her job and the medical insurance, stress can become overwhelming and the damage to families irreparable.

Having worked with many parents facing this problem and seeing what it can do to children and families, I am particularly pleased that a bill such as Senate Bill 249 is being proposed, and particularly appreciate your allowing me to testify on behalf of the bill, Senator Dodd.

Most hospitals, ours included, expect at least one parent to stay in the hospital with the child most of the time. In fact, Dr. Patterson who is also testifying today recognized the importance of parental presence to the emotional and physical well-being of a sick child and pioneered the rooming-in concept many years ago.

We encourage the parent to continue the everyday care of the child such as bathing and dressing so that things can be as normal as possible for the child during this very difficult time.

In today's world, both parents often have to work. Of course, there is no way for a parent to work and stay at the hospital. Often the hospitalization is lengthy and leave is quickly used up. Even in the, quote, traditional family where only one parent works, there is tremendous familial stress because both parents cannot remain at the hospital as we prefer.

The child and the mother need the support of the working parent, and cannot understand how he can leave them and go to work. The father, on the other hand, may see his primary role as wage earner and cannot afford to risk the loss of his job and income.

If the working parent with insurance does choose to stay at the hospital and loses his job, even when another job is obtained there may no longer be insurance coverage for a chronically ill child because of the exclusion of preexisting conditions.

In increasing numbers we are admitting children of single parents. The single parent has both the role of the sole wage earner and the sole or primary caretaker and support person for the child. How can a single parent choose between emotional support for the child and loss of his or her job and, thus, the financial support of the family? If he or she loses the insurance, how can follow-up medical care be obtained for the child?

We often encounter difficulty in helping parents arrange for specialized care in the home, or equipment in the home, particularly when there is a single parent or two working parents. If the insurance has been lost, there is no way to pay for these things necessary for the child's health. Even if the parent is able to get Medicaid, there is no coverage for nursing care while the parent works.

Sometimes welfare and the beginning of a poverty cycle for the family with the tremendous social and family burden this brings society is the only alternative. Often a few weeks or months will cover the child's needs or give the parents time to work out alternative arrangements.

We have a Level 3 neonatal intensive care unit at Egleston. Many babies stay in this unit for weeks and months. Some of our parents are from outside the metropolitan area. These babies cannot be cared for locally. Parents cannot work and visit their babies at night because of the distance involved. Even when parents live locally, they are torn apart trying to work and visit their babies evenings and week ends.

It is important that parents spend regular quality time getting to know their babies, both to the babies' development and to the parental attachment. There is even evidence that lack of early bonding can contribute to abuse of children later on.

We need to be able to say to all parents that our society recognizes the need for parents to be with their children when they are ill or newborn. The stability of the family and the emotional needs of our children must be paramount. No parent should have to decide their job and the emotional support of their child. They should not be forced to go back and forth between job and hospital unable to adequately perform either place. When a parent needs to be with a sick child or to take a child to a medical appointment, keeping his or her job should not depend on the understanding or the whim of an employer. All employers should be required to give reasonable leave to all employees to attend to the medical needs of their children.

I think that this bill addresses that need and, at the same time, recognizes the legitimate concerns of the employer, such as time limitations and protection against abuse. Certainly this bill will not solve all the problems that we see. Some parents would still need to stay at home to take care of their children indefinitely; families will continue to have difficult decisions to make when a child is sick, particularly when both or a single parent works. It will, however, help many families survive the crisis of a child's serious illness or the birth of a child emotionally intact and financially solvent. Thus, I enthusiastically support this bill, and again appreciate the opportunity to present my thoughts to you today.

Senator Dodd. Thank you very much, Ms. Holland.

Doctor, we will be very glad to hear your remarks on the record.

STATEMENT OF JOSEPH PATTERSON, M.D., AMERICAN ACADEMY OF PEDIATRICS, ATLANTA, GA

Dr. Patterson. As stated, I am Dr. Joseph Patterson, Professor of Pediatrics Emeritus of the Emory University School of Medicine, and formerly chief physician for 25 years at the Henrietta Egleston, and that was after 13 years in private practice which is a total of 49 years in pediatrics, seeing various angles and getting to know many types of families. Presently I am an advocate of children and representing today the American Academy of Pediatrics and the Georgia Council for Children.

I am certainly grateful to Senator Dodd for permitting me to participate in these hearings regarding Senate Bill 249 which we support vigorously. Without going on any further and departing from my prepared testimony for a moment, I would like to say that any remarks that I have to make seem to me to be very pale compared to the testimony that has been given here by the parents and by Dr. Dodd's remarks, with which I thoroughly agree.

The emotional well-being of children, as well as nutritional and environmental factors are important to the development of adequate and more than adequate individuals for the survival of this nation and our society. There are, quote, crucial passages, quote—I do not want to get in the same trouble that Senator Biden got in—in the life of a child, such as birthing, infantile development, attachments for security, serious illness, where the presence of at least one parent is temporarily needed for appropriate support. These are crucial and necessary times to fulfill dependency needs, protection and maintenance ultimately of the family or society.

The avoidance of the creation of insecure misfits for this society also has detrimental cost-benefit effects. In order to avoid the critical loss of income and the creation of welfare or near-welfare cycles, it is often necessary for either a, quote, one-parent, quote, or both of a two-parent family to work. There must be some provision for reasonable leave and security for the maintenance of employment and insurance.

Birth and many serious illnesses may consume all of the assets a family will ever be able to possess. This bill is certainly a humane stance, and can only produce beneficial effects.

In addition to the above, preservation of the integrity of the family obviously is of great importance. Initially there will be objection, as there is to enhancing family leave policies because of what appears to be an immediate adverse economic effect on employers. However, it is our strong opinion that benefit packages can be restructured so that a national leave policy will be beneficial to employers, employees and, above all, our young American children.

Certainly, secure parents will be more loyal and productive workers. We enthusiastically support Senate Bill 249 and are submitting under separate cover the previously recorded stand of the American Academy of Pediatrics.

Again, Senator Dodd, thank you very much for permitting us to participate in these hearings.

Senator DODD. Thank you, Doctor. Your testimony is extremely valuable, and to have spent as many years as you have dealing with young Americans—you have watched almost two generations of them come along with that kind of longevity, so you bring a tremendous amount of personal experience and, of course, Doctor, no one here has had the experience of time. You are nodding your head very strongly on it.

Let me ask the two of you, and let me say to both George and Susan Carol, I think you have really said everything. I do not have a question for you. Your testimony is impelling, I think most of us in the room heard it and were deeply touched by it.

What I want to get at in a sense is there are a lot of other George Yandle and Susan Carol Cobbs around, and the two of you as medical people—and in your 49 years, Doctor, you have seen an awful lot of it—what are we talking about here? Is their experience common or uncommon?

Dr. **Patterson**. Well, I think that it is a relatively common experience because, of course—and these people are talking about the toughest end of the spectrum, I think. Now, of course cancer in particular, and both of these folks were involved in problems with cancer, and this is one of the most important, most costly, most devastating illnesses that we see in childhood.

You know, over the years we have gotten rid of the lesser things with immunizations, the infections and so forth. Now pediatrics as a specialty is taking care of the disasters, and of bringing up people to be as nearly normal human beings as possible.

I guess you know the definition of a normal human being, Senator, as an individual who has not been thoroughly investigated. [Laughter.]

Dr. **Patterson**. But at any rate I think this is really what our mission is today, compared with what it used to be. I think they represent, these people that have talked today represent—I would hesitate to give percentages because I really do not know, but a significant portion of our population.

Senator **Dodd**. I was not so much referring to the particular illnesses that their children have, which are the most serious, but more of that of choosing and having the problem they have had with their jobs.

Dr. **Patterson**. I think that is a fairly common thing. I think Ms. Holland could speak to that, perhaps better than I.

Senator **Dodd**. Why don't you?

Ms. **Holland**. It is a very common thing. I know we have a person, a child in the hospital right now who is having a very rough time and may not live, and the father is there with the child, and very afraid that he will lose his job when he gets back.

We have many families who do not lose their jobs, but the stress on the children and the families of trying to balance staying at work, maybe going in just once a week to keep the insurance active or whatever their policy of their company is is such a stress that even when they keep their jobs that the damage to the relationship with the child and the family is sometimes irreparable, the strain is just tremendous.

More often than not I think people do not lose their jobs, but it is the stress and the family lack of bonding and relationships and being with a sick child that we are concerned about, as well as the actual illness.

Senator **Dodd**. Let me just for the purposes of the record give you some statistics, national statistics. There are 10 million children in this country which have chronic illnesses, which is about 15 percent of all children suffer chronic illnesses in our society. Between 1960 and 1981 the incidence of serious illness in children under the age of 17 doubled, so it is an increasing problem.

While you are correct we have taken care of the common kind of situation that occurred the chronic illness and serious illness among children is on the rise.

Dr. **Patterson**. Right.

Senator **Dodd**. So it is not a problem that is abating, unfortunately.

And again from a medical standpoint for both of you if I can, is there any—can you detect at all the ability of a child to recuperate, or to recover faster when a parent or patents are present? Given two children, one that has parental involvement and one that does not, is there any way you can detect any marked difference, at least in their ability to recover or to respond to that kind of treatment? Doctor?

Dr. **Patterson**. Well, I think this is a very difficult thing to measure from an organic, strictly an organic standpoint. I mean you have got many factors, what is the thing that does the most, that makes the child better.

It is a very difficult thing to have the data to know which one was most important, but certainly if one looks at a child as one should look at a child as a whole person and not just that disease—you are not treating just a disease, you are treating a human being—certainly he will be apt to, he does come out more intact by the fact that this father despite what he went through, and the mother and her husband, the previous people who testified, that they were there. This child was frightened, this child was hurting, was in a strange environment. Certainly the security of—children are entitled to the security of having their parents with them, and I do think that the outcome of the whole child is unquestionably better.

Senator **Dodd**. Dr. Holland?

Ms. **Holland**. Well, obviously our hospital feels that this is important because we do encourage parents to stay with the children. We have—I would not have a job if he did not feel that the emotional needs of the children were important and that the stress that the parents are going through affects the children, because a large part of our role is to help the parents deal with the stress of having a child so that they can in turn relate better to the child.

I think generally hospitals across the country have the same feeling. Certainly talking with nurses, they will say that a child, they can see the child becoming better when a parent has been absent and comes to the hospital, even sometimes they can tell the difference when a sibling visits a child, that they will perk up and begin to do better medically, so it is as Dr. Patterson says, very hard to measure, but certainly the nurses, the social workers, the people who have direct contact feel that we can see a difference in the children when the parents are present and when the parents are able to give to the children that need them.

Senator **Dodd**. Now, I am sure that countless families over the last ten years are very grateful that you are around, and for the work you have done for them, we are grateful to you, too.

Doctor, we appreciate your testimony. We will receive, of course, the testimony of the American Academy of Pediatrics, and they have been tremendously supportive and helpful in this area.

I was responsible earlier for that Baby Jane Doe legislation, and the best support, the best crowd I had working for me was American Academy of Pediatrics. It is a great group of physicians, and not afraid to step forward and to be heard and to offer good constructive advice, so thank you for your testimony.

You must have been an absolute infant when you started to practice medicine, you do not look like someone who has spent 49 years in it.

Dr. **Patterson**. Well, it is deceptive.

Senator **Dodd**. You look pretty good.

Again, to you, Susan Carol, and to George, any questions I would have had I think would have detracted from the very moving and strong statement you both made this morning. Believe me, you have done an awful lot of good here today with telling those stories. I mean an awful lot of people would just have a difficult time, and it took a lot of courage to stand before a Senate Committee and cameras and an audience in the back and tell those stories but, believe me, you make a difference, so we thank you for being here. Thank you.

Our next panel of witnesses includes policy makers from Georgia, Florida, Kentucky and South Carolina, they are key actors in efforts to put state and local parental leave policies in place, so we look forward to hearing from them.

We are delighted to have with us today Representative Nan Orrock—I hope I have pronounced that correctly, if I have not, correct me, I am sure you will—from the Georgia State Legislature. Representative Orrock is serving her first term in the legislature. She is also the director of the Fund for Southern Communities, a nonprofit organization funding grassroots social change in Georgia and the Carolinas.

Just as importantly, she is a single parent with two sons, and she knows firsthand the stresses and strains of combining work outside the home and parenting.

Representative Irene Rudnick—did I pronounce that correctly?

Representative **Rudnick**. Yes, sir.

Senator **Dodd**. Correct me if I am wrong on any of these names at all.

Representative Rudnick has served with the legislature for 12 years, coming back twice after suffering defeats. That is remarkable. [Laughter.]

Senator **Dodd**. She is from the same town as Strom Thurmond. Wait until I see Strom tomorrow and tell him you were here. You had better say nice things about Strom. I told you today, he was my strong co-sponsor on our special needs adoption legislation. While we disagreed from time to time on things, I find he listens carefully and he can be pretty supportive on some other measures along the way, but coming from his town must be a special treat.

At any rate, Representative Rudnick has introduced legislation precluding the denial of benefits to employees on maternity leave. In addition to teaching business law at the University of South Carolina's at Aiken and serving as a partner in the law firm of Rudnick & Rudnick she is the mother of two children. We are delighted that you are here this morning.

Representative Elaine Gordon is from the Florida State Legislature. Representative Gordon has served in the legislature for 15 years where she sponsored several parental leave bills. She is a sales representative as well for a chemical manufacturing company in Miami when the legislature is not meeting. She is also the mother of three children.

Debra Spotts Merchant is from the Kentucky Commission on Women in Frankfort. Debra Merchant is the Executive Assistant with the Commission, an agency with Governor Martha Lane Collins' cabinet. She is going to tell us this morning about the research and advocacy conducted by the Commission on parental leave. At least a part of me is Kentucky, I spent three years living in that state as a law student and having nothing but the fondest of memories. I almost did not leave Kentucky, it is a beautiful state.

Thank all of you for being here this morning. I do not know if you have heard what I have said to others, but if you have got prepared statements, of course, they will be made a part of the record. Proceed in any way you feel most comfortable.

We will begin in the order that I have introduced you. Representative Orrock, I will begin with you and move on down, and I will have some questions for you, but I do appreciate your—in some of your cases of course traveling a great distance to be here this morning, so we appreciate it.

STATEMENT OF NAN ORROCK, REPRESENTATIVE, GEORGIA GENERAL ASSEMBLY, ATLANTA, GA

Representative **Orrock**. Thank You, Senator Dodd, and let me on behalf of the Georgia General Assembly welcome you and your staff to Georgia.

My name is Nan Orrock, I reside at 1070 Delaware Avenue in Atlanta, Georgia, and I am a State Representative for House District 30 here in Atlanta to the Georgia General Assembly.

I want to go on record as supporting federal legislation guaranteeing parental leave rights. From my vantage point as an interested state legislator I see federal action such as the measure proposed in your bill under discussion as being necessary. It is my belief that state-by-state efforts to achieve the same results would be at best uneven and very slow in coming if we were ever to see it.

For example, here in Georgia I see no motion underway that could result in the establishment of such rights on the state level in the foreseeable future, and I am sure that Georgia is not exceptional in this regard, particularly here in the South.

I gained my appreciation of the need for governmental action to firmly establish parental leave as a basic right from my 16 years as a production worker here in Atlanta in a large manufacturing bakery that employs over 800 Workers, more than 50 percent of whom are women. As union employees, we enjoyed really an optimal situation relative to so many others in that we had contract language which established procedures for applying for leave of absence for up to six months. I would point out that leave of absence was unpaid with cessation of any benefits and coverage, so it—I said it was optimal, it was very much in the relative sense.

Even with this contract language, parental leave was not a universally recognized right, it was subject to the ebb and flow of labor relations with the resulting problems of inconsistency and favoritism.

For example, leaves were granted much more freely when I first began work at the bakery 16 years ago than they are now, and this is due in part to new management that is attempting to change long-established work rules and personnel policies, and there are other factors also that I will speak to that had a significant impact on the parental leave situation in that instance.

For example, years ago when I first went to work there, women received six weeks' maternity pay and could take up to six months unpaid leave of absence if necessary, but however in the late seventies when the federal legislation changed the status of maternity leave the company offered to women employees maternity leave with a maximum paid leave of 26 weeks if it was medically necessary, just as all employees were covered with 26 weeks of disability benefits with health problems, but with vigorous intervention from the insurance industry, doctors we found tightened up their criteria for maternity leave, and it was quite difficult to be out more than six weeks after the birth of the infant and that, of course, only related to the medical condition of the mother, it had nothing to do with any medical problems of the child, so we saw in a curious way that the end result was that a woman who might have an infant with severe medical problems now under this system has less time off under the new law than under the old system, and I just feel that that speaks to the fact that we need federal legislation to fill the gaps.

In the 16 years that I worked on this job, I have borne two sons and faced the inevitable hard choices when they have been sick, but at the same time I have marveled at their good health and my good fortune compared to others who really had to make the choice between job and family because parental leave was not a right but only a benefit and, as such, employees faced that choice. When management views that benefit, it is a concession that is wrested from them by the union and subject to being wrested back at the earliest opportunity, and so there is a tug of war effect goes on, and one never knows what the climate is going to be at the time when one would need to exercise leave.

Now, I realize that I appear passionate in my support of this bill, and I am sure that opposition to this bill, representatives of the business community that may feel differently or equally passionate, but I think that our two positions are not as irreconcilable as they may seem, because I feel that in the long run a humane parental leave policy required by law both provides the flexibility for compassionate response to family crisis, and at the same time creates a loyal and stable work force, which is really the backbone of any business success I feel, and parental leave I think is both a worthy investment and a long-term step toward a healthier bottom line which business of course have to constantly keep in mind.

I would suggest looking back at our history that every advance in the arena of human rights that initially appeared threatening to short-term profitability turned out to be a spur to the overall prosperity of our great nation. I would cite—to look back at the child labor laws, minimum wage standards, compensation for accidents on the job. These are but a few examples of things we now take for granted and have been established as a right in the work place, and there was much consternation when these were being debated as public policy in years past.

I am convinced that by removing parental leave from the arbitrary storm and stress of the marketplace and taking it out of the tug of war that is today's labor relations and chiseling it into our national firmament as a basic human right we will be alleviating a major source of family crisis in our country at a time when we understand the family is in crisis, and taking a significant step toward both social and economic health in this country.

I would like to express my appreciation to the Senator for conducting the hearings and allowing this public input, and I appreciate the chance to make my remarks today.

Senator **Dodd**. Thank you very much.

Representative **Rudnick**. You will need that microphone, one or the other of them there. We welcome you here this morning.

STATEMENT OF IRENE K. RUDNICK, REPRESENTATIVE, SOUTH CAROLINA STATE LEGISLATURE, AIKEN, SC

Representative **Rudnick**. Thank you.

Senator Dodd, members of your staff, ladies and gentlemen:

I certainly wish to express to you my sincerest appreciation for your allowing me to testify at this hearing on the issue of parental and temporary medical leave, S. 249.

I have introduced in the South Carolina legislature House Bill 2686, a bill to preclude the denial or abridgement of benefits under Title 41 of the South Carolina Code to any individual absent from employment for the purpose of maternity leave after exhaustion of paid leave in connection with absence due to maternity.

At present in South Carolina, as well as in other states in the United States, no unemployment compensation is paid to a woman who is necessarily absent from her place of employment because of pregnancy or maternity. If any funds are paid to a woman on maternity leave, it is paid because of the employer's generosity and not because of any statutes on the books of South Carolina.

In most maternity cases in South Carolina, the cost of maternity leave has to be paid for by the woman, and in some instances women who take maternity leave are terminated by their employers. I felt that this failure on the part of the State of South Carolina to allow unemployment compensation for maternity leave was patently unjust.

Another reason that I introduced the bill that I bring to your attention this morning, H. 2686, was to make some effort on my part to help get the State of South Carolina off the bottom of the list of states granting women legal rights. As published in the *Columbia Record* December the 11th of 1986, a newspaper printed in Columbia, South Carolina, South Carolina ranks in laws on marriage, divorce, domestic violence, inheritance rights, reproductive rights, unmarried couples, equal pay, fair employment, credit housing, insurance and public accommodations at the national bottom concerning women. The State of Washington ranks first.

I would respectfully ask that you put the language of my bill allowing unemployment compensation for maternity leave in your proposed federal legislation.

Thank you so much for listening to my testimony.

Senator **Dodd**. Thank you very much.

Representative Gordon, welcome.

STATEMENT OF ELAINE GORDON, REPRESENTATIVE, FLORIDA HOUSE OF REPRESENTATIVES, NORTH MIAMI, FL

Representative GORDON. Thank you, Senator Dodd, and thank you so much for the hearings and this opportunity to talk to you, but I must correct you, we are in our third special session in Florida, so it took me an hour to get here from Tallahassee.

Senator DODD. I apologize.

Representative GORDON. That is quite all right. We are trying to debate tax issues, unfortunately.

I am Elaine Gordon from Florida, I represent the North Miami area. I presently chair the Subcommittee on Appropriations for Health, Social Services and Corrections. I was also responsible, Senator, for introducing successfully a special needs adoption bill ten years ago, so in one way Florida is a little avant-garde, in many other ways not too good.

When addressing a pervasive problem such as this reaching to all our population I think it is important for our federal government to take the lead and establish a standard by which others may follow in effect to establish a moral climate in relation to women's employment and societal goals. There must be some official commitment to acknowledging motherhood as a societal function and stating that those who combine work and childbearing shall not be penalized.

You mentioned that I am a mother of three. I am also a grandmother of three, and when I introduced my legislation last year, and I have reintroduced it again this year—by the way, what I introduced last year is not like the bill that I gave you which is the bill I introduced this year, because I amended it and amended it and amended it. My daughter and daughter-in-law work for large corporations, my daughter works for CitiCorp, and last session she was pregnant with her second child, worked until the day before she gave birth, while—in fact, during that week, that last week of her pregnancy she was promoted and was very successful with her company in being able to take maternity leave, and even for them to acknowledge her desirability as an employee.

My daughter-in-law similarly works for a Burger King, a very large corporation, she has a master's in business and works in the finance department there, and they too welcomed her back.

But I as a divorced mother of three when I was raising my three children came in contact with the switchboard operators and the secretaries and the maids and the nurses' aides and the people who need that pay check so badly, and what shocked me so much when I was debating my bill in committee was the attitude on the part of some of the members—by the way, the pro-life advocates were the ones that voted against my maternity leave bill—was that if we provided an opportunity for unpaid leave for these people that they would just take advantage of it and stay out four months for the fun of it, which of course points out so harshly the insensitivity that most people have about this problem. People in that socioeconomic level cannot afford the luxury of staying out of work four months for the fun of it when they are not going to get paid for it.

I would also like to add that my bill originally included an opportunity for adoptive parents to have the same unpaid leave up to four months, and I even allowed for a punitive father, a person who acknowledged himself to be the father of his child, to be able to under certain circumstances have that leave to care for his acknowledged child, too. Of course, this was not accepted by the committee.

In the State of Florida state employees have up to six months of unpaid leave, and up to four months for adopted minor children as well, so we do have an advantage for our state employees, but there is no policy, nor was I successful in passing a similar policy in Florida last year for the private sector and for other public sectors such as municipal governments and public safety entities, et cetera.

My bill would have provided up to four months' leave, unpaid, with the ability to use any kind of accrued sick or vacation leave and, of course, not to be discriminated against and to require the employer to return that person to that job or an equivalent job without any loss of benefits.

I was successful in getting it passed out of the Commerce Committee. The Senate refused to take up any issue of that nature, and so then I simply let it die on the house calendar. I have introduced it again this year.

I welcome and wholeheartedly support the efforts that you have here at the federal level, because I do believe that federal legislation does provide the guidance and in fact the conscience of certain state legislatures such as ours here today in acknowledging that women are desirable workers, they are important to the economy of the country, but as well the fact that they also are responsible for procreation of our communities is equally important because it is the children, our children that are the future of our country, the future of our economy and the future of every business-person that will come here and speak to you, Senator Dodd, and that I think must be acknowledged at some level or other.

[The prepared statement of Representative Gordon follows:]

STATEMENT OF ELAINE GORDON
Member, Florida House of Represenatives

Good Morning Mr. Chairman, Ladies and Gentlemen of the Committee. I am Elaine Gordon, a member of the Florida House of Representatives representing North Miami, which I have served since 1972. Among other committee assignments, I am the Chairperson of the Subcommittee on Health and Rehabilitative Services/Criminal Justice of the Appropriations Committee, former Chairperson of the Committee on Health & Rehabilitative Services and also immediate past Speaker Pro Tempore.

I have come before this committee today to discuss changing developments in the American workplace, developments which require the attention and the lead of our federal government. These developments would be the emergence of the dual wage earner family. This evolution in American Society has placed a heavy burden on women in the workplace. A burden of being penalized for their childbearing role. Equal opportunity for women in the workplace has been seriously undermined due to the economic penalties and career interruptions attendant with childbearing.

Currently, a woman seeking childcare in the State of Florida may expect to join her child, with 30,000 other children, on waiting lists for child care openings. This problem is accelerated by an artificial limitation on the number of child care centers available due to the high cost of attaining liability insurance.

This problem places women in a severe dilemma, what to do with their newborn children? This is not a dilemma they should face alone. This is a problem for our society to face, as society gains from women's procreation but, in the workplace, only women suffer.

When addressing a pervasive problem such as this, reaching to all our population, I think it is important for our federal government to take the lead and establish a standard by which others may follow, in effect, to establish a moral climate in relation to women's employment and societal goals. There must be some official commitment to acknowledging motherhood as a societal function and stating that those who combine work and childbearing shall not be penalized. This can be evidenced by Sweden, which

HAS A NATIONAL PHILOSOPHY SET OUT IN A 1968 REPORT TO THE UNITED NATIONS ON THE STATUS OF WOMEN IN SWEDEN.

"EVERY INDIVIDUAL, IRRESPECTIVE OF SEX, SHALL HAVE THE SAME PRACTICAL OPPORTUNITIES, NOT ONLY FOR EDUCATION AND EMPLOYMENT, BUT ALSO IN PRINCIPLE THE SAME RESPONSIBILITY FOR HIS OR HER OWN MAINTENANCE AS WELL AS A SHARED RESPONSIBILITY FOR THE UPBRINGING OF CHILDREN AND THE UPKEEP OF THE HOME. EVENTUALLY TO ACHIEVE COMPLETE EQUALITY IN THESE RIGHTS AND OBLIGATIONS, A RADICAL CHANGE IN DEEP-ROOTED TRADITIONS AND ATTITUDES MUST BE BROUGHT ABOUT AMONG BOTH WOMEN AND MEN, AND ACTIVE STEPS MUST BE TAKEN BY THE COMMUNITY TO ENCOURAGE A CHANGE IN THE ROLES PLAYED BY BOTH. THE VIEW THAT WOMEN OUGHT TO BE ECONOMICALLY SUPPORTED BY MARRIAGE MUST BE EFFECTIVELY REFUTED - ALSO IN THE LEGISLATIVE FIELD - AS THIS VIEW IS A DIRECT OBSTACLE TO THE ECONOMIC INDEPENDENCE OF WOMEN AND THEIR ABILITY TO COMPETE ON EQUAL TERMS IN THE LABOR MARKET. SIMILARLY, THE HUSBAND'S TRADITIONAL OBLIGATION TO SUPPORT HIS WIFE MUST BE MODIFIED TO CONSTITUTE A RESPONSIBILITY, SHARED WITH HER, FOR THE SUPPORT OF THE CHILDREN. THIS CONCERN FOR THE CHILDREN SHOULD ALSO BE MANIFESTED IN A GREATER DEGREE OF

PARTICIPATION IN THE SUPERVISION AND CARE OF THE CHILDREN ON THE HUSBAND'S PART."

THIS CONCERN FOR THE FAMILY IS A CONCERN NECESSITATING PUBLIC POLICY. AS STATED IN A STUDY CONDUCTED BY SHEILA B. KAMERMAN AND ALFRED J. KAHN (CHILDCARE, FAMILY BENEFITS, AND WORKING PARENTS: A STUDY IN COMPARATIVE POLICY, COLUMBIA UNIVERSITY PRESS, NEW YORK 1981), ALTHOUGH THE TWO-WAGE EARNER FAMILY HAS EMERGED IN THE UNITED STATES, "THE UNITED STATES HAS NEITHER AN EXPLICIT LABOR MARKET POLICY REGARDING WOMEN NOR AN EXPLICIT POPULATION POLICY. FURTHERMORE, ALTHOUGH RHETORICAL STATEMENTS ARE MADE REGARDING CHILDREN, THE UNITED STATES HAS NO EXPLICIT CHILD CARE POLICY AND CERTAINLY NONE FOR FAMILIES WITH VERY YOUNG CHILDREN. INDEED, THE U.S. POLICY IS A GOOD WAY OF AVOIDING DEALING WITH ANY POSSIBLE VALUE CONFLICTS." THE AUTHORS ALSO STATE THAT THERE HAS BEEN NO EXPRESSION IN THE POLICY OF THE UNITED STATES THAT ENCOURAGES FEMALE PARTICIPATION IN THE WORKFORCE, OR THAT CHILD REARING CONTRIBUTES TO THE CONTINUITY AND BETTERMENT OF SOCIETY.

IT IS IMPORTANT THAT THE FEDERAL GOVERNMENT ADDRESS THIS FOR A NUMBER OF REASONS. FIRST, AND FOREMOST, IS THAT A WOMAN SHOULD

NOT HAVE TO CHOOSE BETWEEN HAVING CHILDREN AND PROVIDING THEM WITH ADEQUATE CARE, OR LOSING A JOB AND ALL ACCRUED BENEFITS. IN CONCERT WITH THAT, IT IS IMPORTANT THAT OUR PUBLIC POLICIES SUPPORT LABOR, WHOSE CONTINUED PERFORMANCE WILL IN TURN SUPPORT THE ECONOMY. IN ADDITION, PARENTAL LEAVE INCREASES WORKER PRODUCTIVITY SINCE IT ALLOWS WORKER RECUPERATION AND TIME TO ASSIMILATE THE FAMILY TO THE NEW ARRIVAL. ALSO, MEASURABLE IN REAL COST TERMS, IS EMPLOYEE TURNOVER. WORKERS THAT LEAVE THE JOB FOR A SHORT PERIOD OF TIME AND THEN RETURN, ARE CHEAPER THAN THE COST OF HIRING NEW EMPLOYEES AND TRAINING THEM.

ALL OF THESE FACTORS ARE EVIDENCE OF THE SOCIETAL CHANGE I REFERRED TO EARLIER, THE TWO WAGE EARNER FAMILY. MEN AND WOMEN ARE WORKING EQUALLY OUTSIDE THE HOME AND AS A RESULT ARE WORKING MORE EQUALLY INSIDE IT AS WELL. A PUBLIC POLICY PROVIDING LEAVE FOR NEWBORN CHILDREN, FOR BOTH MEN AND WOMEN, WILL REFLECT THIS CHANGE.

DURING MY TENURE AS A MEMBER OF THE FLORIDA LEGISLATURE, I HAVE ATTEMPTED TO CREATE AND SUPPORT LEGISLATION TO BRING BASIC EQUALITY TO WOMEN IN THE WORKPLACE. THE 1987 LEGISLATIVE SESSION

OFFERED ANOTHER OPPORTUNITY TO ADVANCE THIS GOAL.

I INTRODUCED A BILL RELATING TO MATERNITY LEAVE WHICH WOULD HAVE MADE IT ILLEGAL FOR PRIVATE OR PUBLIC SECTOR EMPLOYERS OF 25 OR MORE WORKERS TO REFUSE TO ALLOW A WOMAN TO TAKE UP TO FOUR MONTHS MATERNITY LEAVE. THIS BILL WOULD PROVIDE AN ATMOSPHERE SO THAT WOMEN WOULD NOT BE FORCED TO MAKE THE CHOICE BETWEEN FAMILY AND CAREER.

CURRENTLY, THE STATE OF FLORIDA PROVIDES PROTECTION UNDER THE CAREER SERVICE SYSTEM TO A WORKER WHO BECOMES PREGNANT. THE WORKER MAY NOT BE TERMINATED AS A RESULT OF PREGNANCY AND THE EMPLOYER MUST GRANT A LEAVE OF UP TO SIX MONTHS, WITHOUT PAY. THE EMPLOYEE, HOWEVER, MAY USE ACCUMULATED ANNUAL AND SICK LEAVE CREDITS FOR SUCH LEAVE. UPON RETURNING AT THE END OF HER LEAVE OF ABSENCE, THE EMPLOYEE IS REINSTATED TO HER JOB OR TO AN EQUIVALENT POSITION WITH EQUIVALENT PAY AND WITH SENIORITY, RETIREMENT, FRINGE BENEFITS AND OTHER SERVICE CREDITS ACCUMULATED PRIOR TO THE LEAVE PERIOD. IN ADDITION, BOTH PARENTS ARE ELIGIBLE FOR UP TO FOUR MONTHS LEAVE IN THE CASE OF CHILD ADOPTION.

My bill proposed to extend maternity leave beyond state employees and encompass all employees, public and private, in businesses employing 25 or more employees in one location. This limitation evolved from discussion of the bill as it moved through the committee process and was determined to alleviate the concerns of those interests which felt the bill was a burden on smaller businesses.

Therefore, except for state employers, in all public and private sector businesses employing 25 or more employees in one location, female workers would be entitled to a reasonable maternity leave period of up to four months, without pay although accrued leave time could be used for such purpose. Leave could be taken for reasons relating to the employee's pregnancy or childbirth or if she adopted a minor child.

As a corollary, I also attempted to take this provision one step further and extend its coverage, at least to a degree, to men. In this situation, if the woman is physically or mentally unable to care for her new child, her husband would be entitled to take up to four months leave to care for the newborn or newly

ADOPTED CHILD AS LONG AS HE WORKED AT A JOB WHERE 25 OR MORE EMPLOYEES WERE EMPLOYED.

IN ADDITION TO THE BROAD ENCOMPASSMENT OF THE MATERNITY LEAVE PROVISION, THIS PROPOSAL ALSO PROHIBITS AN EMPLOYER OF 25 OR MORE EMPLOYEES WHO IS NOT SUBJECT TO TITLE VII OF THE FEDERAL CIVIL RIGHTS ACT OF 1964 FROM DISCRIMINATING AGAINST PREGNANT EMPLOYEES. SPECIFICALLY, UNLESS IT WAS BASED ON A BONA FIDE OCCUPATIONAL QUALIFICATION, IT WOULD BE AN UNLAWFUL EMPLOYMENT PRACTICE TO REFUSE TO PROMOTE A PREGNANT EMPLOYEE OR REFUSE TO SELECT HER FOR A TRAINING PROGRAM WHICH COULD LEAD TO PROMOTION PROVIDED SHE COULD COMPLETE THE PROGRAM AT LEAST THREE MONTHS BEFORE HER MATERNITY LEAVE. MOREOVER, EMPLOYERS COULD NOT DISCHARGE A PREGNANT EMPLOYEE FROM EMPLOYMENT OR A TRAINING PROGRAM OR DISCRIMINATE AGAINST HER IN COMPENSATION, CONDITIONS OR BENEFITS.

AS I STATED EARLIER, I ATTEMPTED TO EXTEND THE COVERAGE OF LEAVE TO MEN IN THE SITUATION WHERE THE WOMAN WAS INCAPACITATED AND UNABLE TO CARE FOR THE CHILD. THIS WAS WELL RECEIVED BY THE COMMITTEE. HOWEVER, A BILL VERY SIMILAR TO THE BILL I HAVE JUST DESCRIBED, WHICH EXTENDED TO MEN THE SAME LEAVE PROVISIONS AS

PROVIDED TO WOMEN, WAS NOT SO WELL RECEIVED. IN FACT, THE SENTIMENT OF THE COMMITTEE WAS SO STRONG THAT IT WAS IN OUR BEST INTEREST TO WITHDRAW THE BILL FROM CONSIDERATION.

THAT IS NOT TO SAY THE FLORIDA LEGISLATURE IS TOTALLY WITHOUT INITIATIVE TO MOVE IN THIS DIRECTION. THERE WAS LEGISLATION INTRODUCED IN THE HOUSE OF REPRESENTATIVES, WHICH PASSED THE HOUSE OF REPRESENTATIVES, AGAIN USING THE STATE CAREER SERVICE SYSTEM AS A MODEL, WHICH GRANTED PATERNITY LEAVE TO FATHERS OF NEWBORN CHILDREN.

THE EXPRESSED INTENT OF THIS BILL WAS THE RECOGNITION OF THE IMPORTANCE OF THE ROLE OF THE FATHER IN ESTABLISHING A RELATIONSHIP THAT NURTURES THE DEVELOPMENT OF THE NEWBORN CHILD AND THE IMPORTANCE OF ALLOWING OPPORTUNITY FOR THE FATHER TO BE WITH HIS FAMILY DURING THIS SPECIAL TIME. THE BILL GAVE NEW FATHERS A RIGHT TO MANDATORY TIME OFF ON EQUAL FOOTING WITH NEW MOTHERS AND PROSPECTIVE MOTHERS BY GRANTING THEM THE RIGHT TO LEAVE WITHOUT PAY FOR UP TO FOUR MONTHS. THE EMPLOYEE WOULD HAVE THE OPPORTUNITY TO USE EITHER ACCRUED SICK OR ANNUAL LEAVE CREDITS DURING THIS PERIOD.

This is a move in the right direction and I was proud of the Florida House of Representatives for taking the lead and passing this bill. Unfortunately, our counterparts in the Senate were not so moved but hopefully the 1988 Session will find them more enlightened.

Despite that encouraging sign, however, the situation remains that women outside the state career service system, women in both the public and private sectors, are not provided this basic job protection. And that inequity is what we are attempting to correct through legislation.

The proposed law I have described to you, does not force employees to take leave, it merely permits it. My focus is to allow those new mothers who either have a desire or a critical need, the opportunity to take time off and not be discriminated against by virtue of her job or the benefits she has accrued being at risk. These decisions, and these adverse results, are not faced by a man.

The obligation we are seeking to fulfill here is simply that women who need, or choose, the opportunity to remain home with

THEIR NEW CHILD, SHALL BE ALLOWED THIS OPPORTUNITY WITHOUT THREAT OF THE LOSS OF THEIR CAREER.

IN SUMMATION, WE ARE MERELY TRYING TO PROVIDE A WOMAN WHO IS WORKING, WHO NEEDS HER JOB, WHO NEEDS THIS JOB SECURITY, WITH THE FLEXIBILITY TO MAKE CAREER AND FAMILY DECISIONS WITHOUT THE NEED TO CHOOSE BETWEEN LEAVING HER JOB, LOSING HER JOB OR BECOMING A MOTHER.

Senator DODD. Thank you very much, Representative Gordon.

Debra Merchant from Kentucky, thank you for being here this morning.

STATEMENT OF DEBRA SPOTTS MERCHANT, KENTUCKY COMMISSION ON WOMEN, FRANKFORT, KY

Ms. MERCHANT. Thank you for the opportunity to participate.

Senator, a low percentage of today's families are really reflections of the traditional family consisting of one male wage earner. Nationally, women represent the fastest growing segment of the work force, and in Kentucky as you have already said, women represent seven out of every ten workers. Over 43 percent of the women in Kentucky's work force have children under the age of 18.

In order to provide relief to women and families trapped between the demands of the work place and home, federal and state governments must support legislation allowing parental and temporary medical leave.

As a former special education teacher and former advocate for parents of children with developmental disabilities, I have interacted with children who have ongoing and require ongoing medical attention. In my experience I realized how extremely difficult it was for many families to work and give adequate attention to children needing the attention. In one year in my classroom two parents lost two jobs because after pushing to get these children placed on the rolls of a very intensive therapy program the parents were unable to participate in the 45 minute daily sessions for four weeks that the program required the parents to participate in.

For example, in the first job one employee understood this person had a handicapped child but just could not understand why intensive therapy was even needed "after all this was a handicapped child." The parent left that employment, went to a second job and was hired with the understanding that she would have to leave 45 minutes during the day to participate in these therapy sessions. The employer thought it was fine at first, but then just realized it broke up too much of this employee's day and then released that employee from that job for the same reason.

The very sad result for that particular family was that the child was dropped from the rolls of that therapy program because the parent just could not attend, and the parent had lost two jobs because she was trying to attend those therapy sessions.

Teachers can cite numerous instances where out of necessity children are sent to school or day care centers or elsewhere in ill health simply because there is no one at home to attend to the children while the parents have to work, and then employers want to know why employees do not leave their personal problems at home. When and where else are employees to attend to family needs if adequate leave policies and job guarantees are not provided.

Small employers, while creating the largest percentage of jobs, have been found to be less likely to provide employee benefits such as disability leave, pension coverage or health insurance. A 1980 Columbia University study found that out of 250 companies examined only 72 percent of the employers guaranteed that a woman could return to her job and retain her seniority if she took maternity leave.

Some large companies and employers do provide job guarantees and employee benefits above what is minimally required by federal and state mandates for equal disability treatment; however, provisions for adequate leave and benefits are inadequate and inconsistent.

Under current federal and state laws, as long as all temporary disabilities are treated the same an employer who provides no leave or no provisions for job security at all is within the law.

The American work force has undergone rapid and drastic change over the past 30 years. Families have been greatly affected by changes in the demographics of the work force. 67 percent of women with children under three years old are in the work force today. Women are working out of economic necessity, and the increase in two wage earner families has been amazing.

As a result of personnel policies that have failed to change as the composition of the work force has changed, the American family is suffering. Statistics ranging from divorce, child poverty and teen suicide are evidence of this suffering. Parental and temporary leave policies that offer flexibility and economic security to all workers, male and female, as members of two-income households or as single heads of households are needed.

The Parental and Medical Leave Act is an act for families. The Act provides allowances for fathers as well as mothers in the case of birth, adoption or seriously ill children. In cases of personal serious health conditions, employees are allowed specified amounts of time for unpaid leave. Job security is provided in the form of continued health benefits and pension and security coverage. Further security is provided in that employees are guaranteed return to their existing or similar positions.

The Kentucky Commission on Women has drafted what it would like to see adopted as the state's version of the Parental and Medical Leave Act. The Kentucky version, patterned after S. 249, your bill, Senator, allows specified periods of leave for family or personal temporary disabilities and provisions for job guarantees.

America is the only industrialized nation that does not have a national policy for parental leave. Such a policy would offer options to employers and employees—not mandatory requirements. A policy allowing for the provision of parental and temporary medical leave is needed to allow people to be good and attentive parents as well as good and attentive employees.

Thank you.

[The prepared statement of Ms. Merchant follows:]

STATEMENT ON PARENTAL AND TEMPORARY MEDICAL LEAVE

Prepared for The Subcommittee on Children, Families, Drugs, and Alcoholism Regional Hearing - October 13, 1987.

By: Debra Spotts Merchant, B.A., M.S., J.D.

The Kentucky Commission on Women is an agency within the Cabinet of the Governor of the Commonwealth. The Commission consists of twenty-five (25) volunteer commission members and a small staff who are appointed by the Governor. The purposes of the Commission are to monitor federal and state trends and legislation that affect women and families; to support or sponsor educational programs for or about women; and, to serve as a clearinghouse and resource center for information regarding the status of women and families. Based on information gathered from across Kentucky and reviews of national information, the members of the Commission feel the time has come to offer relief to women and families trapped between the demands of the home and the workplace.

DRASTIC CHANGES IN THE COMPOSITION OF THE WORK FORCE NECESSITATE CHANGES IN PERSONNEL POLICIES

In today's "go for the gusto" and "have it all" society, many people are struggling to maintain a family and keep a job. While the media is encouraging listeners to take advantage of all available options from health plans to housing and from bottled spring water to high interest savings plans, many parents are deciding what circumstance should take precedence over another - staying home to nurse a sick child or going to work. As our society has changed, so have family and marital patterns. People are choosing to live not in traditional family units but in groupings based on various needs and circumstances. Today, the idyllic Ozzie and Harriet family of the 1950's is representative of only 10% of this nation's families. Changes in family and marital patterns have been in a large part adaptations to economic and cultural changes.

Studies indicate that between 1950 and 1985, the number of working women increased by 178%, while the number of men rose by only 47%. Women make up 44% of the work force and by 1990 are expected to make up one-half of the work force. Almost half of all mothers with children under the age of one are working outside the home. Such sweeping changes in the composition of the work force over the past thirty years have placed a tremendous strain on families.

In 1980, women constituted 43.6% of the full time civilian labor force in Kentucky. While earlier studies of employment patterns indicated that women of child bearing age dropped out of the work force, today's trend shows that women no longer take extensive time off from work to bear and raise children. In 1985, four (4) out of every ten (10) workers were women. Among the women in the labor force, 43% have children under the age of eighteen.

Families have been greatly affected by the increase in wage earners per unit. Out of economic necessity, two income families are represented in over half of the work force. In Kentucky, 44% of all married women are employed outside the home. Families are adjusting schedules and responsibilities while adjusting to the reality that two people must now work in order to attain and maintain the standard of living once within the reach of a single wage earner.

Employed women, many of which are single heads of households, have had to struggle with the additional frustrations of fulfilling both their traditional family and job responsibilities. In addition to child care responsibilities, more than 2.2 million family members (mostly women) provide care for parents and relatives who have serious health conditions. Yet, in the wake of overwhelming changes in the work force, employers have not adapted their personnel policies to the changing needs of families.

Some states provide job guarantees and employee benefits above what is minimally required by federal and state mandates for equal disability treatment and prohibitions against pregnancy discrimination; however, provisions for additional leave and benefits are inadequate and inconsistent from state to state. Most workers are reliant upon piecemeal personnel policies or union contracts that may still leave some, including 60% of working mothers, unprotected. Under current federal and Kentucky laws, it is possible for an employer not to provide any type of medical leave to employees for use in the event of a temporarily disabling condition including pregnancy. As long as all temporary disabilities are treated the same, an employer that provides no leave is within the law.

In order to accommodate the diversiveness of today's families and bring stagnant employment policies in line with current demographics of today's work force, employers must accept and put in practice policies that offer flexibility and economic security to all workers, male and female, as members of two income households or as single heads of households. Such flexibility and security is available through the Parental and Temporary Medical Leave Act (S. 249).

A POLICY GOVERNING PARENTAL AND MEDICAL LEAVE IS NEEDED TO ADDRESS THE NEEDS OF FAMILIES IN THE THROES OF CHANGE

Under the Parental and Temporary Medical Leave Act, employers with fifteen (15) or more employees, would guarantee up to eighteen (18) weeks of unpaid leave over a twenty-four (24) month period for fathers as well as mothers in the case of a birth, adoption, or seriously ill child. In cases of personal serious health conditions, employees are allowed up to twenty-six (26) weeks unpaid leave over a twelve (12) month period. The Act requires employers to continue existing health benefits and pension and security coverage during leave. Employees are guaranteed return to their existing or similiar positions.

In 1983, the Social Security Administration estimate that among the 91.6 million wage earners in the United States, only 59.1 million were covered by a formal disability plan. Some large companies have no paid maternity related benefits that would allow for a leave of six weeks - the minimum recuperation period prescibed by obstetricians.

Current federal law does not require employers to offer temporary medical leave to any employee. In 1980, an amendment to Kentucky's Civil Rights Act brought the state's law into conformity with federal law prohibiting pregnancy discrimination. Federal and Kentucky law require employers to provide the same treatment for women temporarily disabled by pregnancy as would be provided to an employee temporarily disabled by a broken leg. In Kentucky, many employers follow a reasonable leave policy limited to the period of actual temporary disability.

THE KENTUCKY COMMISSION ON WOMEN IS IN SUPPORT OF A STATE PARENTAL AND MEDICAL LEAVE ACT

The Kentucky Commission on Women has drafted what it would like to see adopted as the Commonwealth's version of S. 249. The Kentucky version is patterned after S. 249 and H.R. 925 and would entitle an employee to eighteen (18) workweeks of parental leave during any twenty-four (24) month period due to the birth or placement of a child (either through adoption or foster care) or in order to care for a child or parent who has a serious health condition. The Kentucky draft also entitles an employee who, because of a serious health condition, becomes unable to perform the functions of his/her job to twenty-six (26) workweeks of temporary medical leave during a twelve (12) month period. Upon return from leave, an employee is entitled to be restored to the same position or to be assigned to a position with equivalent status, benefits, and conditions of employment.

The Kentucky Commission on Women is currently seeking a member of the state legislature to sponsor the Act. The Commission is circulating two versions of the Act for consideration. One version contains a provision for temporary medical leave and the other does not. Kentucky employers could accommodate a law allowing parental and temporary medical leave.

Currently, the Commonwealth of Kentucky and many other Kentucky employers permit employees to earn sick leave at a rate of about twelve (12) days per year and annual leave at the same or a higher rate depending upon the length of service. Under most personnel policies, employees may use accumulated leave time to supplement unpaid leave allowances. A few large Kentucky employers have very generous leave policies that provide disability leave in excess of four (4) months, pay for the total period of actual disability, and guarantee reinstatement to the actual or a comparable position. However, Kentucky is the location of many more small employers who provide no leave for any temporary disabling condition including pregnancy.

OPPONENTS RAISE ARGUMENTS OF TOO MUCH GOVERNMENT INTERVENTION AND HIGH COST

The Chamber of Commerce has become a vocal opponent of parental and temporary medical leave policies. They have argued that a policy governing parental leave should not be imposed by Government. However, the United States' government has been in the business of formulating policy and legislation designed to protect the economic security and stability of families. From legislation affecting minimum wage standards to labor regulations intended to protect women and children in the labor market, the federal and state governments have established guidelines when necessary. In many families, a pregnancy or unexpected crisis is a threat to the family's economic security.

Furthermore, studies of human behavior and development have maintained the importance of a supportive family unit to the development of solid and productive citizens. Daily, we are bombarded by statistics ranging from divorce to child poverty to teen suicide. These statistics are evidence that families are in trouble. Obsolete employment policies that make it more, rather than less, difficult to be both a wage earner and an attentive parent are partly to blame. In order for families to bind together in times of crisis and to provide for its own well being, employers must be coerced into providing options for job flexibility and economic security. In the interest of raising children and protecting families, the government must move to set the examples as well as the standards.

The cost of providing parental leave is a frequently cited argument. Most often the cost to employers - in lost productivity, the expense of hiring temporary replacements and the maintenance of health insurance for those on leave - is presented and the cost to parents is ignored. Yet, parents face the loss of weeks or months of needed income just when a new addition to the family or illness of a child is causing a rise in family expenses.

Many employers avoid incurring additional expenses associated with hiring temporary replacements by direct hiring rather than through employment agencies. More often than not, employers reallocate the assignments of employees on leave among existing personnel thus paying little if any additional cost.

The Chamber of Commerce has also estimated losses in the millions of dollars due to reduced productivity. Much of these projections are based on the assumption that companies are fully productive and that every eligible employee given the opportunity would take the maximum amount of leave available. The period of disability for a normal pregnancy is 4-8 weeks. In 95% of the cases, the time lost from work due to pregnancy is six (6) weeks or less. Fathers often take just a few days.

Many new mothers quit their jobs and then reenter the workforce but in a different job. This type of turnover is costly for the employer as well as the employee. According to an analysis in Training magazine, hiring and training a new permanent employee can cost nearly the equivalent of a year's salary. It is far less expensive to maintain veteran staff than to hire and train new recruits. The provision of parental leave would reduce employee turnover due to temporary medical conditions and improve employee morale and thus productivity.

In the wake of predictions of a tighter labor market and labor shortage in some fields, parental leave is the mechanism through which employer's can increase employee recruitment and retention.

A NATIONAL POLICY FOR PARENTAL AND MEDICAL LEAVE IS CRUCIAL TO THE HEALTH OF THE AMERICAN FAMILY

America is the only industrial nation in the world that does not have a national policy for parental leave. Over one hundred (100) countries guarantee workers some form of job security. Canada offers 17-41 weeks of leave to the mother at 60% salary for up to fifteen (15) weeks. Sweden's policy guarantees 12-52 weeks of leave to the mother or father at 90% salary for up to thirty-eight (38) weeks. Finland provides up to thirty-five (35) weeks of leave to the mother or father at 100% salary for up to thirty-five (35) weeks. All of the aforementioned provide some type of job security.

In summary, the American work force and family are in need of policies that allow for a workable coexistance. Leave policies that provide adequate options between paid or unpaid temporary medical leave are needed to shore up the structures of traditional and non-traditional families. Assurances of job security are also needed to provide economic security for families. Federal and state legislation is needed to address the needs of today's significantly diverse families. Families are in need of a Parental and Temporary Medical Leave Act.

Senator Dodd. Thank you very much, and I thank all of you, and again let me express my appreciation for taking the time out of sessions and busy schedules and the like to be here today.

I might point out, I mentioned earlier, and you just mentioned it again, Ms. Merchant, where the United States ranks with regard to other industrialized nations. Interestingly, we are tied for 20th place among industrialized nations in terms of infant mortality, we are at the bottom.

We rank at the bottom of all industrialized nations. We also have a unique and dubious distinction: we are the only industrialized nation where the poorest sector of its population is children. That should frighten us when we start looking at the tremendous growing competitive environment as we close out this century and begin the next in terms of keeping our country on the cutting edge and in the strongest position economically. What we are looking at down the road is alarming when we look at the data. Children starting school this year will graduate from high school in the year 2000, so it is an important and interesting year to look at. Thirty percent of all children starting school this year will drop out of high school before getting a high school diploma nationwide, and that number reaches 40 and 50 and 60 percent in some inner city schools around the country. That is the work force that business and industry are going to have to rely upon. One out of every four children is growing up in poverty in this country and, one out of every two in our urban areas.

Once again I am not suggesting this particular bill is a panacea—in fact, we have a larger issue coming before us in a sense, it is a separate issue, the child care issue which we have to deal with as well. I will be introducing a major bill on that subject later this month, but too often that issue gets confused with the child care issue.

I will ask the questions and you can respond accordingly, unless someone else covers it for you, but I will address these questions to all of you.

First, a number of states are moving in the area of maternity disability leave. The Supreme Court issued a decision recently on this subject matter and there are a variety of states that are beginning to move forward. The one area of the country that it seems to me where we have not had any movement at all yet is in the South. But, interestingly Kentucky is an exception—and I want you to comment on this in a few minutes, Ms. Merchant—because Kentucky has had a leave policy for adoption. That is interesting, because most states in other regions do not have adoption leave policies. But overall, the Southern states have not moved forward in terms of leave policies. Yet in many of your states here with the textile industry and the like, women are in the work force in great numbers. I do not know if I am right or not, but I think historically there has probably been a greater percentage of women in the work force in the South than in other parts of the country. So, I wonder if we could project ahead. I know it is frustrating when bills do not move, but are you seeing a change in the air? Are you sensing that there is a greater opportunity for state action in these areas than before? Do you want to just comment on that generally? I will begin with the state legislators, and then I will come to you, Ms. Merchant, and have you talk about why Kentucky has an adoption leave policy and not maternity leave, and why that worked out that way.

Representative ORROCK. Senator, I do not see a race in that direction at this point, maybe a few halting steps at best. I mean I think—I agree with you as you pointed out the South as a region seems to be the slowest to be taking up these questions, and we have the legacy of segregation, the legacy of hostility to unionization, the kind of peculiar mythology about the Southern woman that has acted as a double burden where they are elevated on the one hand in mythology, but the reality is something quite different.

In Georgia, let me speak for that, we—Georgia still has laws on the books that consider employees to be employed at the will of the employer, simply, period, anything that does not violate a federal law about discrimination, sex or race or age discrimination—those are the only grounds on which an employee can protest a firing. We are employed at the will of the employer, and that to me is far, far behind some of the policy in other states, other regions of the country, and we are not even beginning to position ourselves to address that, so in Georgia an employee who is hurt on the job can be fired after they go seek their workers' compensation rights and coverage, and they have no protection by state law. That is something we are hoping to address, I have introduced some legislation on that.

I am raising those just simply to say that we have a long way to go here in this state, and I think the legacy of the South stands in the way of—we are moving toward more progressive social policy, but we have quite a ways to go.

Interestingly enough—and I will just take one more minute—I spoke with one of the families that testified earlier who had sought some parental leave and learned that the company that had employed the mother, the woman, was a Finnish company, Scandinavian, and was here doing business. They had a two-year paid leave policy back home in Finland.

Senator DODD. Do not scare the chamber, they are sitting out here——

[Laughter.]

Representative ORROCK. They did not bring that with them when they came, with the exception of their employees that they brought with them from Finland were still allowed that, but I raise that to just may that I think when we establish national policy on that we will find the business climate that can support it, and maybe possibly not until then.

Senator DODD. Let se ask you, too, and I will ask the same thing I asked earlier on this, I would be curious as to what arguments you are receiving, whether or not they are any different than any of the national arguments we are getting on the problems with the bill, and while it is always dangerous to engage in generalities, why you think the South has been slow on race questions and the like.

If I were to associate any part of the country with the notion of family, a strong sense of family—and I say this as a New Englander with all due respect to my own part of the country—I associate the South as the part of the country that has the strongest sense of family, the extended family, the—In my area of the country you have to spend a year or two before you find out who your next door neighbor is, whereas in the south there is a reaching out, people seem to—a larger involvement in the community in the larger sense, so I would be interested in a response to that kind of question when you have a strong sense of family and family values why is there this reluctance to move in an area like this.

Do you want to comment on that, Representative Rudnick?

Representative RUDNICK. Well, I think that South Carolina's motto is "While I breathe I hope," and——

[Laughter.]

Representative RUDNICK [continuing]. And I continue to introduce this type of legislation that I have talked to you about, which is to me—I mean the parental leave aspect of it is very interesting I think, but we in South Carolina do not even have the unemployment compensation there, and in other states also, Senator, it is considered a quit and you are not eligible, and the Supreme Court has just ruled within the last year it is my understanding that each state was—their laws will prevail, so before you take that step of the parental leave I have got to fight this in South Carolina, and I think that it will be a long time in this legislation that I have introduced coming to a successful fruition there.

I hope that this opportunity of mine to appear before you to plead to you as well as your colleagues in Congress to address this problem of unemployment would give impetus to this bill in the South Carolina Legislature. As I said in the beginning, I will still keep in there and keep fighting, but it is a long, hard road.

Senator DODD. Well, I suspect you are known as a fighter. I have never met you before, but I have just got a good gut instinct.

Representative RUDNICK. Being a Democrat in Strom Thurmond's home town is tough. [Laughter.]

Senator DODD. I would think being Strom Thurmond in your home town can be tough. [Laughter.]

Senator DODD. Yes, Representative, go ahead.

Representative GORDON. Senator, I agree, we are not rushing headlong into the 21st Century down here in the South. There are a couple of reasons. You mentioned the traditional values. There are traditional values, we are known as the Bible Belt, and those traditional values are constantly raised on the floor of our legislature with appropriate quotes from the Bible about how, you know, women belong at home, but in the meantime almost half of the law students in the state of Florida are women. These are going to be women in the work force.

Another problem is that for the most part the State of Florida had been an agricultural, and still is an agricultural state, but there is less and less emphasis on agriculture as its business as there is now in biotechnology and various other kinds of, quote, clean industries, and this is very, very new for most of the people in the state of Florida to understand and accept, and also to accept the fact that women because of their training, because of their opportunities to be able to go to college now are going to become a part, and are a part of that work force. Couple that with the fact that the state of Florida is the fastest growing state in the country and 13 years ago it was, I do not know, something around the 15th, and by the year 2000 it is going to be the third largest state in the country, we are finding it very, very difficult for people to understand that we in Florida are in future shock. We are dealing with things on an hour to hour basis rather than a year to year basis, and because we have that background of being a very bucolic and beautiful, slow moving state, it is taking a little time for people to understand that there are different roles now, and different opportunities, and different needs.

I mentioned my bill. My bill originally had also extended the parental leave to men under the same circumstances, including the adoption portion, and another colleague of mine introduced the bill that would have amended the existing state law to allow men the opportunity also to take parental leave for birth——

Senator DODD. That is why it is called parental.

Representative GORDON. Exactly—birth and adoption, and we are just not at the point yet where the legislature is willing to acknowledge that men have and want a role in raising their children and providing that opportunity of bonding between—I mean they laugh at the idea of bonding, they just simply do not understand, and I think it does have to do with this having to drag them kicking and screaming into the 21st Century because we have gotten there so quickly.

Senator DODD. Ms. Merchant, let me ask you this question, too. I have already asked you about the adoption issue, these other questions have been raised. One of the concerns I hear women raise a lot about this bill is that they are fearful that this kind of legislation will serve to cause that kind of unspoken discrimination against them in hiring. They fear that employers looking at two applicants, two qualified applicants, a man and a woman, will hire the man. And then there is the argument that women are more likely to take leave than men are. Given past history with businesses that have had parental leave that appears to be so. Southern New England Telephone Company has had a parental leave policy for over a decade in Connecticut, and it has been very successful I might add—but only a small fraction of the men who work for SNETCO have taken advantage of parental leave. I think that is due to the reasons that you just cited, Representative Gordon. And some of this is changing, but nonetheless I would like you to comment on that, and then maybe come back to my question about the political climate which is the last question for the others of you as well, the representatives. If you could address those points I would appreciate it.

Ms. MERCHANT. Interestingly enough, Kentucky is a lot like Florida in that we are basically an agricultural state and we are in the Bible Belt. Thus we tend to be very conservative and very traditional, and that kind of thinking has negatively affected legislation for women and families in our state.

While on the one hand traditional and conservative thinkers believe women should be in the home, i.e., why encourage them to go to the work place. On the other hand, those exact same arguments are used to say we should not encourage benefits and accommodations for women already in the work place because then they will just all continue rushing out of their homes, leaving their babies at home and not taking care of them. This is the kind of rhetoric that has passed back and forth on our floor during the General Assembly.

As far as adoption is concerned—there were actually two different lobby efforts in Kentucky, one supported by people encouraging adoption, pro-adoption forces, and then people for maternity leave. Maternity leave was viewed differently in Kentucky than adoption was viewed. Because the federal government set the standard, the Kentucky legislature brought our law into conformity with the federal law and treated maternity leave with the equal disability treatment the federal government gave it, and that is why it is important for the federal government again to take the lead on this particular issue, family leave. States tend to follow the lead, tend to follow the examples of the federal government, and if this example is held up by the federal government and standards are set, then I really think Kentucky, as other states, will fall in line and adopt parental leave policies.

And to persons that argue that employers will discriminate against women, that is an argument that is often raised when advocates for women and families want to present legislation that will benefit women in one way or another. I just do not think that is accurate.

The leave policies will not be mandatory. The legislation does not say we have to take this many days, weeks, months of leave. These are merely options that offer flexibility for the employer and for the employee to work out what is good for that particular company in this particular circumstance.

The majority of people do not need 24 weeks to recuperate. The normal recuperation period for pregnancy is four to eight weeks.

Fathers are ten times less likely to take any amount of leave time, and when they do, they generally take a few days, and mothers under normal circumstances are usually back at the work place after about six weeks, so I do not think the parental leave policy will cause mass upheaval in what is going to happen in the work place.

Senator DODD. I must agree, and I appreciate your bringing out those points about the bill. They sometimes think you are mandating this amount of time.

One of the other complaints is this that it is the yuppie bill. I think in two of the three fact situations that I talk about in the bill—adoption and birth—there can be some financial preplanning. I appreciate the difficulty not knowing the age of an adoptive child one is going to get, but obviously in the time it takes to adopt a child, you can really start to sock away a few bucks. Certainly with the birth you know with a rather high degree of certainty when the child is going to arrive, so you can do that.

With illness you cannot, that is a far more difficult situation to cope with financially, but the notion somehow that only the affluent can take advantage of this is wrong. I did not ask these people, but they did not strike me as being yuppies. The families who were here this morning, ought not be discriminated against given the pressures and the economic burdens they face.

And lastly, you have all commented on this, but in case you wanted to add any additional words, please do so. I find recently, by the way, Ms. Merchant, that it is the states that are doing some of the creative things and the federal government that is lagging behind in a lot of areas. So the states have been interesting laboratories.

Financial institutions are an entirely different subject matter, there has been very creative legislation dealing with insurance, banking and securities. They are far more creative and innovative than the federal government has been, and there is a whole host of areas where I think the states are.

My concern would be I think from a business perspective—I think if you were a very small business it would not make that much difference, but if you are a larger business doing business in a variety of states, I would think that having a patchwork of legislation would be difficult to deal with. I think in literally every state legislature across the country there has been parental leave legislation introduced, and there was a high degree of success in at least some states.

Again, it is not a liberal or conservative issue, it is just a fact of life issue, given the number of people in the work force confronted with the problem. I was interested to hear you say I think without exception that you would actually prefer to see something happen on the federal level in this area rather than to go through the patchwork of states. Am I correct in that assessment. Do you want to comment on that?

Representative ORROCK. Well, in thinking about this I can imagine at the point that a bill of this type got on the floor of the Georgia General Assembly one of the prevailing arguments against it would be that business would not seek to do business in Georgia with this, or that business would leave and go over to Alabama, for example, so I think that is a very strong argument for a consistent across-the-board federal policy, and your bill really to me represents an attempt to begin addressing a new reality that several people here have spoken to today, and that is that the phenomenon of single-parent families, of households that must have two pay checks at the prevailing wages and conditions and the inflation rate situation you must have two pay checks to exist minimally, and there is a lag, we are experiencing a lag between the new reality of the numbers of women in the work force, the numbers of two-income families, and very inadequate child care, and next to no parental leave policy in place in the country, certainly nothing across-the-board, and this legislation is I think an attempt to play catch-up, to begin to put some policy in place that meets, reflects the new realities and the needs of American women, and I think of American business. As I said, in the long run it is better bottom line business policy.

Senator DODD. It is always interesting to me that the businesses that are doing it, that are living with it and doing it, who have made the decision in most cases on their own, are not given the credibility as witnesses. The businesses will come before us and say "This is what we think it is likely to be like," somehow their testimony is given more credence than the Equitable Insurance Companies, the IBMs, the SNETCOs and others who are very successful corporations. Sometimes I think these companies must almost smile because if the others have not caught on they almost see this as an advantage. But I find it incredulous—I mean I would have normally thought it is the witness that has been through an experience that is normally going to be listened to rather than someone who is trying to tell you what they think it is apt to be like if they engage in something. Nonetheless the experience with small and large corporations who have moved into this area has been a very profound and very productive one, just from the testimonies we have had of businesses who have watched turnover rates, absenteeism. One business here from the South, a small textile firm, literally had a 50 percent turnover rate on an annual basis, had about 90 percent women working with it. It started a parental leave and a child care policy and reduced the turnover rate from 50 percent to zero. They ended up laying off people because of just the efficiency of the operation and people being involved in it.

Again, that is just one thing. I do not want to get into anecdotes, but there are countless stories when people move. I could not agree with you more, the notion that this is somehow anti-business is absolutely ludicrous as I think the evidence will bring to bear, the evidence of businesses and industry that have done this as opposed to the testimony of industries and business that only imagines what it might be like, and so we will get to more of that a little bit later.

I thank all of you for—I am sorry, Representative Gordon, you had a comment.

Representative GORDON. One other reason that it is important for federal legislation came to my attention during the testimony again of these other businesses—we have an organization called Associated Industries, which is a lobbying group for several businesses—and that was that he said that if we provided this opportunity in law that businesses would no longer provide it as a fringe benefit, thereby providing an obstacle in the path of competition between businesses, because this would then no longer be something that could be offered as a competitive edge for fringe benefits in businesses.

I think that is again a red herring. This kind of a benefit should not be considered the same as whether or not you get two or four weeks' leave, or whether or not there is a retirement system or a health benefit, this is part of what the needs of a growing society requires. We require replenishment of the population, we require that we have a healthy population, healthy families, and it should be everybody's responsibility, and it should not be used as a chit in competitive activities between businesses, and to say—my answer to these businesses that came and said small businesses are going to go down the drain, I simply point to Canada and ask them to tell me how many small businesses went down the drain since they have a national policy, and to South America where there are many countries that have paid leave, and none of them can show me any small businesses that went under because there were national policies of this nature.

Senator DODD. Thank you very, very much. Again, my thanks to all of you for being here this morning. I appreciate it, and I know you have gone out of your way to come also, so I thank you.

We will take about just a ten or fifteen-minute break. The Chairman is alone up here and needs to take a couple of minutes, then we will come back with our last two panels and conclude that quickly. We have been here all morning.

We will stand adjourned.

[Whereupon, at 12:00 noon a brief recess was taken.]

Senator **Dodd**. The Subcommittee will reconvene.

Our third panel of witnesses—fourth, I guess—this morning is from the business community, those who will express opposition to the legislation as well as proponents of the bill.

I appreciate particularly them waiting as long as they have this morning. I hope sitting here has maybe been of some benefit to hear some of the people talk about it from the public sector as well as the families, and the medical people as well.

We are fortunate to have with us this morning Mike Roark who is from the U.S. Chamber of Commerce at West Point, Georgia. Mr. Roark represents the Chamber, is also the Vice President of Human Resources of WestPoint Pepperell of West Point, Georgia. Did I pronounce that properly?

Mr. **Roark**. Yes, sir.

Senator **Dodd**. WestPoint Pepperell is a major producer of textiles and apparel.

James Stone is with the Carolina Power and Light Company of Raleigh, North Carolina. Mr. Stone has worked with Carolina Power for the past 37 years. That is quite a distinguished record. Am I correct in those years?

Mr. **Stone**. That is correct, yes.

Senator **Dodd**. 37. God bless you, that is a long time. He is now the Manager of Planning and Administrative Support for the company which serves both North and South Carolina and employs 9,500 workers. He is also the father of five and the grandfather of six, so congratulations on that account as well.

Zack Hinton is with the National Grocers Association from McDonough, Georgia, representing the grocers. Mr. Hinton is the owner of Zack's Big Buy, a retail grocery store in McDonough. He is also the president and chief executive officer of Zack's Properties, Inc., which includes a liquor store and fast food restaurants in McDonough.

B. Sue Medley-Lane is from Call-a-Nurse in Atlanta, Georgia, a registered nurse herself for the past 12 years, is the owner of Call-a-Nurse. Her firm matches the needs of hospitals and private individuals with nurses seeking work. She employs ten workers, is the mother of three children. She took parental leave herself when her son Cobb was born over a year ago. We welcome you.

Jack Hirsch is with the National Federation of Independent Businesses of Atlanta, Georgia. He will be testifying on behalf of the National Federation. Mr. Hirsch is a certified public accountant and a partner in the firm of Hirsch, Babush, Neiman & Kornman. Did I destroy one of the names in the process.

Mr. **Hirsch**. Well, you did quite well. Better than most.

Senator **Dodd**. Better than most. All right.

Mr. Dan Thompson, Jr., Mr. Daniel Thompson is with Southern Bell in Atlanta, he is the Vice President of Personnel with Southern Bell, a subsidiary of BellSouth Corporation. Of course, as you all know this company provides service to all the Southern states.

Cindia Cameron is with Nine to Five Southeast Field Office, Atlanta, Georgia. Cindia Cameron is the field organizer for the Southeast for Nine to Five, a national nonprofit membership organization of women office workers. Previously she was the staff director of the Atlanta chapter of Nine to Five, and she has both offered parental leave as an employer and taken such leave herself. Thank you for being here.

It is a large panel, and I am anxious to hear your testimony. As I told all the other witnesses, we will receive any prepared testimony you have. That may be longer and in more detail, and feel confident that all of that data will be properly included. You may have testimonials from others that you would like to have included, and if it is not voluminous but rather representative we will also include that as well as a part of the record here today.

Why don't I begin with Mr. Roark, I will proceed in the order in which I introduced the witnesses. You will have to share those microphones, I believe, so that you can be heard.

If you will try and limit your comments to about five minutes apiece of formal comments, that will make sure we get through. We have a large panel and I do not want to take any more of your time than necessary, so if you will try and limit it to that it will be helpful when we get to some questions. Thank you.

Mr. **Roark**. Is that positioned so that it is working?

Senator **Dodd**. Yes.

Mr. **Roark**. Okay. Fine.

STATEMENT OF D. MICHAEL ROARK, VICE PRESIDENT HUMAN RESOURCES, WESTPOINT PEPPERELL, WEST POINT, GA

Mr. **Roark**. I represent WestPoint Pepperell which happens to be the largest employer in the State of Alabama, and one of the largest employers in the State of Georgia. We manufacture textile and apparel products and employ 32,000 of 1.8 million workers in the U.S. textile and apparel industry.

We oppose S. 249 as we oppose other government intrustions into the compensation and benefits structure of the private sector.

In introducing the Parental and Medical Leave Act, Senator Dodd, you said because such leave would be unpaid, it will not add to the deficit nor to the economic burdens carried by employers. We disagree. Parental and medical leave is an employee benefit. Like all benefits, it has a cost. Health insurance for nonproductive workers, lost productivity and the hiring and training of replacements costs money. If the study mandated by this legislation leads to paid leave, it will cost a great deal of money. This legislation will add to costs, and to the extent the taxable business earnings are reduced it will add to the deficit.

The Congress is caught between pressure from new social programs and the federal deficit which limits new spending.

Legislation transferring social costs to private industry is politically seductive and might be acceptable if mandated benefits were only an act of political deceit, a hidden tax on the American people passed on in the price of goods. This is not the case. We do business, particularly in our industry, in a global economy, and many manufacturers cannot competitively raise prices. Benefits add 37.7

percent to American wages; they add 21 percent to Korean wages, 16.8 percent to Japanese wages and 5 percent to Taiwanese wages. If we legislate increases in the cost of making a garment in Georgia or Alabama, that garment will be made in Taiwan or in South Korea next year.

In the briefing paper issued on February 3rd the sponsors of this bill pointed to seven countries which mandate paid parental leave. It is interesting to note that between 1980 and 1986 the total number of employed persons in these seven countries increased by only 2.2 percent, or 1.5 million. During that same period, the total number of persons employed in the United States increased by 10.3 million, or 10.4 percent. European style interference by government in every aspect of the compact between employers and the employed has not served its presumed beneficiaries well. The mix of compensation and benefits is a matter which should be resolved between employers and employees or their unions, not one which should be enforced by government.

Estimates of cost for this legislation range between 2.6 and $23.8 billion. The GAO, while somewhat persuasively attacking the U.S. Chamber of Commerce estimate, has not provided its own estimate. I would mention to the committee that the National Foundation for the Study of Employment Policy has commissioned a study by Robert R. Nathan Associates, a consultant which I believe is widely respected on both sides of the Senate aisle, to quantify these costs, and in our opinion prudence demands that costs be considered before the Congress acts on this matter.

Costs aside, we believe that leaves guaranteed by this legislation will be abused. There is no minimum service requirement for leave eligibility, there is no procedure for challenging the diagnosis of an employee's physician, and there is no provision for limiting the number of extended medical leaves an employee may take in a career.

WestPoint Pepperell offers maternity and child care leave to employees, as well as sick leave to employees who become ill. Such leaves are subject to management approval, medical challenge and a three-month service requirement for eligibility. One recently acquired division of WestPoint Pepperell offers such leaves as a matter of right with no approval, but with a three-month service requirement. Over the last twelve months the percentage of days lost to medical and parental leave by employees whose leaves were not subject to approval exceeded that of those employees whose leaves required approval by 45.8 percent.

In conclusion, we believe that it is inappropriate for government to mandate employee benefits. Employee benefits were created by business not government in response to the needs and often the demands of our employees. Industry spends $105 billion per year on medical insurance, along with billions more on pensions, long-term disability, life insurance and other compensation benefits plans. American business and American workers have been well served by this system. The Europeanization of the American economy through ever more intrusive regulation of the work place will in the end lead to lost productivity, lost jobs, lost tax revenue and a loss of the competitive edge which America has begun to regain.

[The prepared statement of Mr. Roark follows:]

Statement of

D. Michael Roark, Vice President of Human Resources

WestPoint Pepperell

on

Parental and Medical Leave Act of 1987

Before the

Subcommittee on Children, Families, Drugs and Alcoholism

October 13, 1987

Mr. Chairman, I am Michael Roark, Vice President, Human Resources of WestPoint Pepperell of West Point, Georgia. WestPoint Pepperell is a major producer of textile and apparel products employing thirty-two thousand American workers. The American textile and apparel industry employs 1.8 million workers, many of whom are unskilled or semi-skilled and all of whom compete daily for their jobs with imported products made by workers in countries with no minimum wage, no child labor laws, no mandatory benefits, and no laws to mitigate the harshness and perils of working conditions which would shock the conscience of American employers.

We oppose S249 as we oppose mandated health insurance and other intrusions by government into the compensation and benefits structure of the private economy.

COST:

In introducing the Parental and Medical Leave Act on January 6, 1987, the Chairman, stated "Because such leave would be unpaid it will not add to the deficit nor to the economic burdens carried by employers". Even the staunchest supporters of this bill know that statement is wrong. Parental and medical leave is an employee benefit.

Like all benefits it has a cost. Continuing employer contributions to employee health insurance costs money. Lost productivity costs money. Hiring and training replacements costs money. Finally, if the report of the Commission established by the legislation results in medical and parental leave becoming paid leave, it will cost a lot of money. This legislation will add to the economic burden on employers and to the extent that the taxable earnings of those employers is reduced it will add to the deficit.

The Congress is faced with a dilemma. On the one hand you have pressure for a cornucopia of new social programs; on the other a federal deficit which virtually precludes new spending initiatives. Legislation transferring social costs to private industry is a seductive alternative which on the surface appears to do much good and little harm.

This might be true if mandated benefits were nothing more than a hidden tax on the American people, if it were just another cost of doing business to be added to the price of our goods in the marketplace. The realties are different. We do business in a global economy and many manufacturers are at the limits of their ability to raise prices. Today, fringe benefits add 37.7% to the average hourly wage of American workers. By comparison, such benefits add 21% to the wages of a Korean worker, 16.8% to the wages of a Japanese worker and 5% to the wages of a Taiwanese worker. If we legislate significant increases in the cost of making a garment in Georgia or Alabama, that garment will be made in Taiwan or South Korea next year.

In the Congressional briefing paper issued on February 3, 1987, the Senate and House sponsors of this bill pointed to seven countries---Canada, Italy, Germany, Sweden, Finland, Austria and Chile---all of which have paid parental leave extended as a matter of right to all employees. It could be added that these countries have a whole panoply of other government mandated benefits. It is interesting to note that between 1980 and 1986 the total number of persons employed in these seven countries increased from 69.5 million to 71 million, an increase of 1.5 million or 2.2%. During that same period, the total number of persons employed in the United States increased from 99.3 million to 109.6 million, a net increase of 10.3 million jobs or 10.4%. The point which I make is not that parental leave is solely or even primarily responsible for the dismal employment statistics in these countries. My point is that European style interference by government in every aspect of the compact between employers and the employed has not served its presumed beneficiaries well. The money available for wages and benefits is finite and to the extent that one benefit is offered another must be denied. The final mix of compensation is a matter which should properly be negotiated between employers and employees or their bargaining agents, not one which should be mandated by the Government.

Estimates of the costs of this legislation to the American economy have ranged between $2.6 and $23.8 billion. The GAO, while somewhat persuasively attacking the U.S. Chamber of Commerce estimate has, to the best of my knowledge, thus far failed to provide their own estimate. To enact this legislation with no well-defined notion of its impact on the economy would, in my judgment, be irresponsible. I would point out to the Committee that the National Foundation for the Study of Employment Policy has commissioned a study by Robert R. Nathan Associates, Inc., a consultant whose integrity and methodology is respected on both sides of the Senate, to objectively cost the provisions of:

- The Parental and Medical Leave Act
- The High Risk Disease Notification Act
- The Access to Health Care for Uninsured Workers Act
- The Plant Closing Notification Act

I would think prudence would dictate a thorough and objective consideration of economic impact before the Congress acts on these pieces of legislation.

POTENTIAL FOR ABUSE:

We believe that the leaves guaranteed by this legislation are subject to employee abuse. There is no minimum service requirement for leave eligibility. There is no procedure for challenging the determination of the employee's physician as to the existence of a "serious health condition", and there is no provision for limiting the number of extended medical leaves which one employee may take in the course of a career.

WestPoint Pepperell, as a matter of policy, offers medical, maternity, and child care leave to employees. Such leaves are subject to management approval, medical challenge and a three month service requirement for eligibility. One recently acquired division of WestPoint, because of long-standing past practice, offers such leaves as a matter of right with no management or Company medical review, but with a three month service requirement. Over the last twelve months the employees covered by the WestPoint policy averaged absenteeism of 2.4% because of medical, maternity, and child-care leaves. The employees for whom leaves were not subject to review had a rate of absenteeism of 3.5% from such leaves. The difference is 45.8%. Stated another way, under our current policy 768 employees are on medical, maternity, or child care leave at any given time. Should we lose control of leave policy that average could rise to 1120 employees. The cost of the medical insurance subsidy alone for this increased rate of leave would be $549,000 per year.

CONCLUSION:

In conclusion, we believe that it is inappropriate, unnecessary, and unwise for government to mandate employee benefits. There is a powerful economic imperative which impels employers to offer the best employee benefits programs which they can afford. That imperative is the never-ending competition in the employment marketplace for the best and the brightest the workforce has to offer. Employee benefits were created by business, not government, in response to the needs and often the demands of our employees. American industry spends $105 billion per year on medical insurance benefits and countless billions more on pensions, long-term disability insurance, life insurance and other components of the compensation and benefits mix. American business and American workers have been well-served by a system where employers have provided the benefits which their employees most desired, balanced by the Company's ability to pay. The Europeanization of the American economy through ever more intrusive regulation of the work place will in the end lead to lost productivity, lost jobs, lost tax revenue and a loss of the competitive edge which America has begun to regain.

Senator DODD. Thank you very much, Mr. Roark.
Mr. Stone.

STATEMENT OF JAMES P. STONE, CAROLINA POWER AND LIGHT CO., RALEIGH, NC

Mr. STONE. Senator Dodd, we appreciate very much the opportunity to meet with you and to share with you and with your committee some of the practices that we have in place in our organization.

Carolina Power and Light Company is an investor-owned nonunion electric service utility serving about 30,000 square miles of North and South Carolina and, as you have earlier stated, has about 9,500 employees.

I think we should start by indicating that of those employees a very large percentage of them are female, and of the female employees nearly 80 percent in what we would look at as the childbearing years, so would be impacted by whatever policies we have. We have seen this change since I have been with the organization in terms of the number of females in those age years.

We have also seen the economic and social changes that have occurred in the nation, they have occurred within our organization population as well. In response to these things, in 1981 we introduced newborn care leave. Newborn care leave takes over after the disability from maternity has been concluded.

Let me speak to the disability first. We handle that as any other medical disability. The amount of time that is paid, and the amount of time off the job is dependent upon the circumstances of the disability as well as the employee's record of prior absences, and it is a management discretionary decision as to what will be. However, if the individual that is involved chooses after the maternity situation has been settled and they are capable of coming back to work to stay home and tend to the child for a period of time in excess of 30 days, either the father or the mother working for us may take a leave of absence for newborn care of not less than 31 calendar days and not more than four months, in which period of time benefit packages, medical coverage, dental coverage and so forth are continued, and when they return their job is there for them. The job may not be identical in exactness, but it will be the in same classification in the same general geography and with the same pay.

In addition in 1981 we introduced an adoption leave policy, again available to either the mother or father, the leave beginning on the day the child is received, and the period of the leave coinciding with the length that is recommended by the adoption agency, but not to exceed twelve months. Again, during this period of time benefits and position are respected and retained.

I was asked to speak to the question of problems and advantages here. Many of us have already heard this morning of the advantage side of it. In terms of loyalty, in terms of turnover, in terms of absenteeism and so forth, there are many advantages. It would be impossible to say there are no disadvantages. There are certainly disadvantages. There are disadvantages of having an experienced trained employee off the job for a period of time, during which time others must absorb the workload, or someone else has to be brought in and trained.

Our experience has been, however, that the advantages far outweigh the disadvantages.

The economics of it is such that, very frankly, I can give you nothing except estimates on our actual experience. It has not been sufficiently consequential to us to keep detailed records.

We know, for example, that there has been an average of about seven employees per month out during 1987, to date, on either newborn care or adoption leave, and that that newborn care and adoption leave has averaged about two and a half months. We know that only about 3 or 4 percent of those are male members of our work force.

These are the positions that we take, this is the practice that we have currently. Our company has never felt a need to be, or a desire to be on the cutting edge of new benefit programs and so forth, but we do feel that it is appropriate to respond to the changes in the demographics and the social issues of our particular employee group. We feel that its appropriate for us to be competitive with the other members of our industry and with the industry within the area we serve.

Again, we appreciate the opportunity to meet with you.

[The prepared statement of Mr. Stone follows:]

A REPORT TO
THE UNITED STATES SENATE
SUBCOMMITTEE ON
CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM

by

James P. Stone, Manager
Planning and Administrative Support
Employee Relations Department
Carolina Power & Light Company
Raleigh, North Carolina

October 13, 1987

ER4-3-13

CAROLINA POWER & LIGHT COMPANY
STATEMENT ON PRACTICES
PREGNANCY, NEWBORN CARE AND ADOPTION LEAVES OF ABSENCE

Carolina Power & Light Company serves more than 900,000 customers in a 30,000 square-mile area in North Carolina and South Carolina. CP&L operates nineteen coal-fired steam electric units, four nuclear units, thirty-three combustion turbine generators, two waste-heat combined cycle units, and fifteen hydroelectric units with a total capacity of approximately 9.6 million kilowatts.

To respond to the needs of its service area, the Company employs almost 9,500 men and women located in 54 local offices, five division offices, 16 generating plants and the corporate headquarters in Raleigh, NC.

CP&L is an equal opportunity employer and, as such, is committed to providing employee benefits that compare favorably with other businesses in the communities it serves and with neighboring utilities. As stated in the Company's Employee Handbook, "All personnel policies are administered without discrimination on the basis of race, color, religion, sex, age, handicap, veteran status, or national origin."

According to benefits records, Company practices began to undergo changes in the areas of pregnancy, newborn care and adoption leave of absence in the early 1970s. In 1972, pregnant employees were allowed to work past the seventh month and maternity absences were paid as any other illness.

In 1979, the Company's medical benefit plan covered pregnancy claims as any other disability. In so doing, the Company responded to the changing needs of the workforce, the evolving issues of the times, and maintained compliance with federal regulation.

In 1981, a newborn care leave of absence and an adoption leave of absence were added to the benefits the Company offered. The following text, excerpted from the CP&L Employee Handbook, reflects these practices.

PREGNANCY (falls under the category "Sickness of Employee")

When a regular, full-time employee is absent because of illness, injury, or disability and is medically unable to perform the job duties, it is the responsibility of the supervisor, together with the department head, to decide how long the employee may remain away from work for such reasons without loss of pay. In reaching a decision, consideration will be given to such factors as length of the employee's continuous service with the Company; the nature and seriousness of the employee's illness, injury, or disability; and the employee's record of previous absences. If pay during the absence is approved, time will be allowed for the normal schedule hours the employee would have worked and salary paid at the appropriate rate.

In cases where the employee is absent from work due to illness, injury, or disability, the supervisor may require a statement or statements from the attending physician to indicate when the employee will be medically able to return to work. This statement will be the financial responsibility of the employee and should include information such as diagnosis and prognosis. The Company may require additional statements from physicians other than the attending physician. These statements will be at Company expense.

If an employee indicates difficulties encountered with any aspect of the job due to illness, injury, or disability, or if the supervisor feels the employee may be medically unable to perform a job due to such reasons, a physician's statement may be required indicating the ability or inability of the employee to continue working. This statement is required for both the protection of the employee and the Company.

NEWBORN CARE LEAVE OF ABSENCE

A regular, full-time employee may be granted, upon written request and approval, a newborn care leave of absence without pay. This leave may be used for care of the employee's child immediately following the period of the mother's disability associated with the birth. The leave of absence may not exceed four months and may not be granted for less than 31 calendar days.

Where practical, the impending leave of absence should be discussed with the supervisor at least one month prior to the time of the leave.

All group insurance may be continued during the leave of absence provided the employee makes application for continuance.

If the employee is participating in the Stock Purchase-Savings Program, the employee may leave savings in the plan to preserve the Company's contributions. Upon return to work, the employee may begin participating in stock plans without a waiting period.

The employee will receive credit for 1/12 of vacation for each of the months worked in the current calendar year, including the calendar month in which the leave begins, regardless of the date. If the employee had not taken all vacation earned at the time of the leave, the employee will receive payment for time not taken, providing the eligibility requirement had been met. Upon return from the leave of absence, the employee does not start over as a new employee but begins accruing credit for 1/12 of the vacation per month starting with the first day of the month following return to work.

Upon expiration of the leave, the employee will be reinstated in the original job or a job of like status and pay in the same geographic location.

ADOPTION LEAVE OF ABSENCE

A regular, full-time employee who legally adopts a child, and has satisfactorily completed the six-month probationary period, will be granted, upon written request, a leave of absence without pay.

Upon being approved to adopt a child, the employee should submit a written request to the supervisor. The leave will begin the day the child is received and will coincide with the period of adjustment required by the adoption agency. For this reason, the length of the leave may remain undetermined until the child is received; however, the leave may not exceed 12 months. Each case must be considered separately. In some cases, it may be necessary to hire a replacement on a permanent basis; therefore, termination of the adopting employee may be necessary after six months.

An employee who takes a leave of six months or less will be reinstated in the same job, or an equivalent job, at the same salary. Reasonable effort will be made to reinstate an employee who remains on leave beyond six months.

All group insurance may be continued during the leave of absence, provided the employee makes application for continuance.

If the employee is participating in the Stock Purchase-Savings Program, the employee may leave savings in the Plan to preserve the Company's contributions. Upon return to work, the employee may begin participation in stock plans without a waiting period.

The employee will receive credit for 1/12 of vacation for each of the months worked in the current calendar year, including the calendar month in which the leave begins, regardless of the date. If the employee has not taken all vacation earned at the time of the leave, the employee will receive payment in the last paycheck for time not taken. Upon return from adoption leave of absence, the employee does not start over as a new employee but picks up credit for 1/12 of the vacation per month starting with the first day of the month following return to work.

Currently, 22 percent of all CP&L's employees are women who fall within the child-bearing years of 17 to 45 and could be affected by practices regarding pregnancy. The Company's practices on newborn care and adoption leave of absence are offered to both men and women. About 85 percent of all CP&L's employees fall between the ages of 17 and 45 and could be affected by related practice provisions. Estimates for the first nine months of 1987 indicate that an average of seven employees per month have been out on newborn care or adoption leave and the average length of leave has been two and one-half months.

October 9, 1987

Senator Dodd. Thank you very much, Mr. Stone.

Zack Hinton. Zack, we thank you for being here.

STATEMENT OF ZACK HINTON, NATIONAL GROCERS ASSOCIATION, McDONOUGH, GA

Mr. Hinton. Senator, I am happy to testify today on behalf of the National Grocers Association on this bill and, in addition, to testify for CARE which is Concerned Alliance of Responsible Employers.

Also, I am a small businessman myself. I am not big like some of these people, I own and operate a supermarket about 35 miles from here, and I also have operated a chain of convenience stores which I have just recently sold, and rather than be repetitious with what we have here I would just like to say what my own company policy is for these employees which provides a minimum of six weeks unpaid leave in the event of a pregnancy, childbirth, illness or other personal leave. Furthermore, top executives of the company, in other words, department heads get six weeks paid leave. Health care benefits are continued for the employee during this period. In addition to the leave policy stated above, our employees are permitted to extend leave periods through the use of accrued vacation time.

One thing that is not in my text here, if you are small businessman you consider your employees to be more valuable than equipment, buildings, this type thing. I have been in the grocery business now for about 34 years. I started as the owner end of it, so I know what it feels like to try to make a business go, and I know what it feels like to have to make payroll at the end of the week—still do. But there were seven grocery stores in this little town where I am now, and there is two of us now, and I think my people made the difference, and I think I gave my people more than somebody else did, but I had rather do it than have the federal government legislate the policy on me.

Thank you.

[The prepared statement of Mr. Hinton follows:]

Statement of the National Grocers Association

BY: ZACK HINTON
PRESIDENT AND CHIEF EXECUTIVE OFFICER

ON: S. 249, THE PARENTAL AND MEDICAL LEAVE ACT OF 1987

TO: SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM OF THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE

DATE OCTOBER 13, 1987

The National Grocers Association is the national trade association representing over 2,000 members of the small business sector of the food distribution industry. Retail and wholesale grocers hold full membership in N.G.A.; state/local associations and manufacturer/suppliers hold associate membership in N.G.A.

Mr. Chairman, distinguished committee members , I am Zack Hinton, owner of Zack's Big Buy, a retail grocery store in McDonaugh, Georgia.

I am happy today to testify on behalf of the National Grocers Association on S. 249, the Parental and Medical Leave Protection Act of 1987. The N.G.A. represents the small business sector of the food distribution industry, including over 2,000 retail grocery firms and 60 wholesale distribution companies. N.G.A.'s retail members operate convenience stores, conventional supermarkets, and superstores. N.G.A.'s sixty wholesale food distribution centers distribute food and grocery products to retail grocers in all 50 states.

In addition, I am here to express the views of the Concerned Alliance of Responsible Employers (CARE), of which N.G.A. is a founding member. CARE represents over 160 organizations which strongly believe that a voluntary, flexible and comprehensive benefit system should continue to be negotiated between employers and employees and not be dictated by acts of Congress (See exhibits 1 and 2).

Zack's Big Buy, is based in McDonaugh, Georgia. I also own and operate, under the corporate entity of Zack's Properties, Inc. a liquor store and fast food restaurant facilities in McDonaugh. Combined, our facilities support more than 89 employees. Currently Zack's Big Buy, Inc. employs approximately 79 people.

I believe that Congress should not mandate leave policy and curtail the freedom of employees and employers to negotiate employee fringe benefit policy in the best interests of all concerned.

On the one hand, in today's marketplace, food retailers and wholesalers that desire to attract competent employees must offer competitive benefits packages. On the other hand, because the food industry is so labor intensive, management must have the flexibility to promptly replace both full-time and part-time employees, or risk a disruption of operations that would seriously affect the health of the business. This combination of circumstances makes a highly specific mandated benefit such as parental and medical leave both unnecessary and unworkable for the food industry.

For other industries the circumstances may be different. But the fact remains that it is the competitive marketplace that dictates what we offer our employees. And that is as it should be.

Many retail grocers and food wholesalers have voluntary employee leave programs for pregnancy, childbirth, personal and family illness and other factors as part of a total fringe benefit package that balances the needs of employees with the operational needs of the business.

A recent N.G.A. survey of about 150 retailers and wholesalers revealed that over one-half of the respondents had written leave policies for pregnancy, childbirth, or adoption (see exhibit number 3).

My own company has a policy with its employees which provides a minimum of six weeks unpaid leave in the event of a pregnancy, childbirth, illness or other personal leave. Furthermore, top executives of the company (i.e. Department Heads) get six weeks paid leave. Health care benefits are continued for the employee during this period. In addition to the leave policy stated above, our employees are permitted to extend leave periods through the use of accrued vacation time.

Proponents of S. 249 claim that the bill would incur little or no cost to the employer. But S. 249 is not something for nothing. What specifically are the costs? My business would be hit hard with additional costs for hiring and training temporaries, maintaining the employee benefits of the absent employee and higher insurance costs beyond the terms currently offered. There is also no guarantee the employee will return to work!

While one objection is to the direct dollars and cents cost of the program to employers, our concerns also lie with the interference in the smooth operation of our business, resulting threats to the health of the business, and the potential for unemployment if we must go out of business.

Mr. Chairman, it has been observed that in today's world, the most important job benefit anyone can have is a job that pays a wage. A business that is not competitive simply cannot survive and obviously, cannot provide jobs for the community.

Many European nations enacted mandated benefits almost a decade ago. Those countries now are economically stagnant. Parental leave is not the only reason these countries have fared poorly, but it is an important element in Europe's rigid labor markets. European countries have paid the price: no net job creation since 1975.

On the other hand, in the United States, small business has been the most dynamic sector of our economy. Virtually 70%-80% of all jobs have been created within the small business community. It is in the best interest of our country for Congress to support this dynamic sector by providing a flexible and competitive environment that encourages economic growth, rather than dictating specific benefits that would stifle the economy. Policies which adversely affect the American economy can hardly be in the best interest of the American work force.

Congress should focus on creative, alternative approaches to mandated leave, and on testing of methods to stimulate their use by American businesses.

For example, the recent trend towards "cafeteria-style" benefit plans allows employers to offer employees a menu of benefits from which to select. Mandating specific plans will curtail employee benefits and employer flexibility. Employers have made advances in employee fringe benefit plans by offering flextime and benefit plans which allow employees to "bank" benefits. This has advantages for employers and employees alike. The employee is able to make choices to meet his or her individual needs while the company can control costs.

I am sure you are aware of the array of employment-oriented legislation now pending before Congress. In addition to S. 249, Congress is currently considering increasing the minimum wage, mandating a minimum health care package to all employees, and requiring advance notice of a store/plant closing, to name a few. Any one of these initiatives if enacted by Congress will harm small business. Collectively, these proposals will be disastrous and will result in high unemployment, lower growth rates, and substantial increase in business failures.

Both as an employer and a father, I certainly recognize the need for voluntary parental and medical leave in today's society.

But I believe our federal labor laws are intended to give employers and employees the freedom to negotiate labor/management issues, not deprive them of that freedom.

Every business structures its employee benefit programs to provide for the welfare of its employees and remain competitive in order to attract new employees. A company that fails to do so will find the quality of its workforce and ability to hire talented new employees deteriorating over time. Such a company will lose out to its competition. That is the nature of the free enterprise system in which we operate.

N.G.A. urges you to vote against S. 249, the Parental and Medical Leave Act.

Exhibit 1

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

1725 K STREET, SUITE 710, N.W. WASHINGTON, D.C. • (202) 872-0885

MISSION STATEMENT

The Concerned Alliance of Responsible Employers provides a central coordinating mechanism for trade associations, corporations, and individuals which support the rights of employers and employees to decide the work and family benefits which are best suited to their individual and mutual needs. The members of the coalition believe the private sector is best equipped and provides the most flexible and efficient response to the changing demands and requirements of its workforce.

In response to the growing number of workers with family responsibilities, employers have instituted a variety of programs to assist workers to meet dual work-family demands. Private sector initiatives have included programs such as alternative work schedules, child and dependent care programs, employee assistance programs and flexible benefits plans.

Retention of experienced, trained workers is important to business and its ability to compete in a global marketplace. The coalition encourages employers to explore all avenues of change and accommodation to that end.

The coalition does not support across-the-board government mandates which neglect to take into consideration the individual circumstances of each employer and the particular needs of the individuals in his or her workforce. The best public policy provides the most flexibility within the private sector.

Exhibit 2

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

1725 K STREET, SUITE 710, N.W. WASHINGTON, D.C. • (202) 872-0885

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

Steering Committee

American Association of Life Underwriters
American Association of Nurserymen
American Bakers Association
American Consulting Engineers Council
American Feed Industry Association
American Hotel & Motel Association
American Machine Tool Distributors Association
American Meat Institute
American Retail Federation
American Society for Personnel Administration
Amway Corporation
Associated Builders & Contractors
Association of The Wall & Ceiling Industries
Carnation Company
Citizens for a Sound Economy
Dayton Hudson Corporation
Food Marketing Institute
Frito-Lay, Incorporated
General Mills
General Motors Corporation
International Ice Cream Association
K mart Corporation
Marriott Corporation
Motor Vehicles Manufacturers Association
National American Wholesale Grocers Association
National Association of Chain Drug Stores
National Association of Chemical Distributors
National Association of Convenience Stores
National Association of Home Builders
National Association of Manufacturers
National Association of Tobacco Distributors
National Association of Wholesaler-Distributors
National Automobile Dealers Association
National Beer Wholesalers Association
National Club Association
National Fastener Distributors Association
National Federation of Independent Business
National Fisheries Institute
National Food Brokers Association
National Grocers Association

National Intergroup Inc.
National Lumber & Building Material Dealers Association
National Mass Retailing Institute
National Restaurant Association
National Retail Merchants Association
National School Transportation Association
National Wholesale Druggists' Association
PEPSICO
Potato Chip/Snack Food Association
Revco
Sears, Roebuck & Company
Society of American Florists
The Standard Oil Company of Ohio
United Fresh Fruit & Vegetable Association
Webster, Chamberlain, Bean & McKevitt
Wholesale Florists & Florist Suppliers of America
Wine and Spirits Wholesalers of America

OCTOBER 7, 1987

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

General Members

Air Conditioning Contractors of America
Air-Conditioning & Refrigeration Wholesalers
American Jewelry Distributors Association
American Supply Association
American Traffic Safety Services Association, Inc.
American Veterinary Distributors Association
Appliance Parts Distributors Association, Inc.
Associated Equipment Distributors
Association of Footwear Distributors
Association of Steel Distributors
Association of the Wall & Ceiling Industries, International
Automotive Service Industry Association
Aviation Distributors & Manufacturers Association
Bearing Specialists Association
Beauty & Barber Supply Institute
Bicycle Wholesale Distributors Association
Biscuit & Cracker Distributors Association
Ceramic Tile Distributors Association
Columbia Steel Casting Company
Copper & Brass Servicenter Association
Council for Periodical Distributors Association
Council of Wholesale Distributors (NKBA)
Door & Hardware Institute
Elec-Electronic Materials Distributors Association
Explosives Distributors Association
Farm Equipment Wholesalers Association
Fire Suppression Systems Association
Fluid Power Distributors Association, Inc.
Foodservice Equipment Distributors Association
Food Industries Suppliers Association
General Merchandise Distributors Council
Health Industry Distributors Association
Hobby Industry Association of America
Independent Medical Distributors Association
Institutional & Service Textile Distributors Assn.
International Sanitary Supply Association
Irrigation Association
International Truck Parts Association
Jewelry Industry Distributors Association
Machinery Dealers National Association
Monument Builders of North America
Motorcycle Industry Council
Music Distributors Association
National Appliance Parts Suppliers Association
National Association for Home & Accessories Distributors
National Association of Aluminum Distributors

National Candy Wholesalers Association
National Distributors Association
National Industrial Glove Distributors Association
National Lawn and Garden Distributors Association
National Locksmiths' Suppliers Association
National Marine Distributors Association
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Plastercraft Association
National Printing Equipment & Supply Association, Inc.
National Sash & Door Jobbers Association
National School Supply and Equipment Association
National Solid Wastes Management Association
National Spa and Pool Institute
National Truck Equipment Association
National Welding Supply Association
National Wheel & Rim Association
National Wholesale Furniture Association
National Wholesale Hardware Association
Northamerican Heating & Airconditioning Wholesalers
North American Wholesale Lumber Association
Optical Laboratories Association
Outdoor Power Equipment Distributors Association
Pet Industry Distributors Association
Petroleum Marketers Association of America
Power Transmission Distributors Association
Pulp and Paper Machinery Manufacturers Association
Safety Equipment Distributors Association
Scaffold Industry Association
Security Equipment Industry Association
Small Business Legislative Council
Southern Industrial Distributors Association
Spring Service Association
Steel Service Center Institute
Textile Care Allied Trades Association
Toy Wholesalers' Association of America
TRW Incorporated
United Pesticide Formulators & Distributors Association
Video Software Dealers Association
Wallcovering Distributors Association
Warehouse Distributors Association
Water and Sewer Distributors of America
Western Suppliers Association
Wholesale Distributors Association
Wholesale Florists & Florist Suppliers of America
Wholesale Stationers' Association, Inc.
WISE Incorporated
Woodworking Machinery Distributors Association
Woodworking Machinery Importers Association

OCTOBER 7, 1987

Exhibit 3

During the months of March and April 1987, the National Grocers Association conducted a comprehensive study of approximately 150 of its members. Study participants were selected in order to provide a balanced, typical view of the experiences of independent grocers throughout the nation.

Three relevant questions were posed to those members surveyed. They were:

> Question One: Do you have a written leave policy for employees due to pregnancy, child birth or adoption? Responses: The data makes clear that a wide variety of employment practices are followed, and that full-time and part-time employees may be subject to different notice requirements. Responding employers indicated that the absence of formal written notification through contract stipulation had not produced any major employer-employee difficulties over the course of time. In most cases, informal notification procedures and policies were followed as a matter of course.
>
> Question Two: What is the maximum number of days of unpaid leave provided to full-time and part-time employees in pregnancy, child birth, or adoptive situations? Responses: Once again a great variety of situations manifested themselves. Depending upon the circumstances involved and employee priorities, leave periods could range as high as 1 year, 6 months, or for a period of indefinite time subject to medical authorization.

Question Three: Is the individual guaranteed return to his/her job or a similar position? Responses: The survey results made clear that a significant majority of our employers provided some comparable return position as a matter of employment "guarantee," in cases of full-time employees. The percentage of actual job replacements was even higher when consideration was given to non-"guaranteed" re-employment as well as instances where the matter never emerged as an issue.

This N.G.A. study makes very clear that family and medical leave policies are a matter of substantial difference throughout the specific employment settings in the entire country. No one formula is seen as desirable in the free market system where different preferences will produce different agreements. Certainly, the most basic lesson which the data teaches us is that a single legislative formula which seeks to legally impose a simplistic, uniform formula upon small business throughout the nation would be undesirable and counterproductive.

The complete results of the N.G.A. study follow.

National Grocers Association

Survey Results on Employee Leave and Benefit Policies

Question One: Do you have a written leave policy for employees due to pregnancy, child birth or adoption?

	Full/Part Time/Time		Full/Part Time/Time		Full/Part Time/Time		Full/Part Time/Time		Full/Part Time/Time
1.	yes /	31.	yes / yes	61.	no / no	91.	no / no	121.	no / no
2.	yes / yes	32.	no / no	62.	no / no	92.	yes / yes	122.	no / no
3.	yes / yes	33.	yes / yes	63.	no / no	93.	yes /	123.	yes / yes
4.	yes / yes	34.	no / no	64.	yes / no	94.	no / no	124.	yes / no
5.	no / no	35.	no / no	65.	no / no	95.	yes / yes	125.	yes / yes
6.	no / no	36.	no / no	66.	no / no	96.	yes / yes	126.	yes / yes
7.	yes / no	37.	no / no	67.	no / no	97.	yes / no	127.	no / no
8.	yes / yes	38.	no / no	68.	no / no	98.	yes / yes	128.	no / no
9.	no / no	39.	no / no	69.	no / no	99.	no / no	129.	no / no
10.	yes / no	40.	no / no	70.	no / no	100.	yes /	130.	yes / yes
11.	no / no	41.	yes /	71.	no / no	101.	yes / yes	131.	yes / yes
12.	yes / yes	42.	no / no	72.	yes / yes	102.	no /	132.	no / no
13.	yes / yes	43.	no / no	73.	no /	103.	yes / no	133.	no / no
14.	no / no	44.	no / no	74.	yes / yes	104.	yes / yes	134.	yes / yes
15.	no / no	45.	yes / no	75.	no / no	105.	yes / yes	135.	no / no
16.	no / no	46.	yes / yes	76.	yes / yes	106.	yes / yes	136.	no / no
17.	yes / yes	47.	no / no	77.	no /	107.	yes / no	137.	yes / no
18.	no / no	48.	yes / no	78.	yes / yes	108.	yes / yes	138.	yes / yes
19.	yes / no	49.	no / no	79.	no / no	109.	no / no	139.	yes / no
20.	yes / yes	50.	yes / no	80.	no / no	110.	yes /	140.	no / no
21.	yes /	51.	no / no	81.	yes / yes	111.	yes / yes	141.	yes / no
22.	no / no	52.	yes / yes	82.	no / no	112.	no / no	142.	yes / no
23.	yes / no	53.	yes / yes	83.	yes / yes	113.	no / no	143.	no / no
24.	no / no	54.	yes / yes	84.	no / no	114.	no / no	144.	yes / yes
25.	yes /	55.	no / no	85.	no / no	115.	yes / yes	145.	no / no
26.	no / no	56.	yes / yes	86.	yes / no	116.	no / no	146.	yes / yes
27.	no / no	57.	yes / yes	87.	no /	117.	yes / yes	147.	yes / yes
28.	yes / yes	58.	yes / yes	88.	yes / no	118.	yes / yes	148.	yes / no
29.	yes / yes	59.	no / no	89.	no / no	119.	no / no	149.	no / no
30.	yes / yes	60.	no /	90.	yes /	120.	no / no		

	Full Time	Part Time
Total number of yes answers:	76	49
Percentage of yes answers to total number of responses:	51%	33%

Question Two: What are the maximum number of days of unpaid leave provided to full-time and part-time employees in pregnancy, child birth or adoptive situations?

	Full/Part Time/Time
1.	60 /
2.	84 / 84
3.	90 / 70
4.	90 / 90
5.	---------
6.	30 / 30
7.	182 /
8.	* / *
9.	0 / 0
10.	60 /
11.	0 / 0
12.	* / *
13.	42 / 42
14.	42 / 42
15.	30 / 30
16.	---------
17.	* / *
18.	30 /
19.	182 / 0
20.	* / *
21.	* / *
22.	* / *
23.	90 /
24.	120 / 0
25.	42 /
26.	---------
27.	* / *
28.	---------
29.	180 / 180
30.	90 / 90
31.	90 / 90
32.	90 / 90
33.	no limit
34.	365 / 365
35.	0 / 0
36.	30 / 0
37.	180 / 180
38.	---------
39.	---------
40.	180 / 0
41.	** / **
42.	---------
43.	---------
44.	---------
45.	30 / 0
46.	---------
47.	180 / 0
48.	
49.	365 / 365
50.	no policy
51.	90 / 0
52.	---------
53.	45 / 45
54.	180 / 0
55.	---------
56.	90 / 90
57.	56 / 56
58.	180 / 180
59.	90 / 0
60.	180 / 180
61.	0 / 0
62.	90 / 90
63.	* / *
64.	--------
65.	0 / 0
66.	30 /
67.	* / *
68.	14 / 0
69.	* / 0
70.	--------
71.	--------
72.	180 / 180
73.	* / *
74.	180 / *
75.	---------
76.	90 / 90
77.	0 / 0
78.	56 /
79.	* / *
80.	30 / 0
81.	* / *
82.	---------
83.	no policy
84.	180 / 180
85.	---------
86.	365 / 0
87.	* / *
88.	21 / 21
89.	90 /
90.	-----------
91.	60 /
92.	180 / 180
93.	* / *
94.	* / *
95.	90 / 90
96.	0 /
97.	120 / 120
98.	90 / 90
99.	* / 0
100.	84 / 84
101.	---------
102.	60 / 60
103.	42 / 0
104.	---------
105.	180 / 90
106.	98 / 70
107.	90 /
108.	180 / 0
109.	* / *
110.	** / **
111.	---------
112.	180 / 180
113.	90 / 90
114.	180 / 180
115.	---------
116.	180 / 180
117.	42 / 42
118.	---------
119.	183 / 365
120.	---------
121.	180 / 0
122.	no limit
123.	---------
124.	no policy
125.	---------
126.	90 / 0
127.	120 / 0
128.	42 / 0
129.	14 / 0
130.	365 / 365
131.	* / *
132.	---------
133.	0 / 0
134.	180 / 180
135.	14 / 14
136.	0 / 0
137.	* / *
138.	180 / 0
139.	30 / 0
140.	0 / 0
141.	180 / 180
142.	* / *
143.	180 / 180
144.	180 / 180
145.	60 / 0
146.	0 / 0
147.	no policy
148.	---------
149.	30 / 14

* Number of days determined on an individual basis.
** Number of days based on doctor's authorization.

Question Three: Is the individual guaranteed return to his/her job or a similar position?

Full/Part
Time/Time

1. yes /
2. yes / no
3. yes / yes
4. yes / yes
5. yes /
6. yes / yes
7. yes / yes
8. no / no
9. yes / yes
10. yes /
11. yes / yes
12. yes / yes
13. yes / yes
14. yes / no
15. no / no
16. no / no
17. no / no
18. no / no
19. yes /
20. yes / yes
21. yes /
22. yes / yes
23. no / no
24. yes / yes
25. yes / yes
26. yes / yes
27. no / no
28. yes / yes
29. yes / yes
30. yes / yes

Full/Part
Time/Time

31. no / no
32. no / no
33. yes / no
34. no / no
35. yes / no
36. no / no
37. yes / yes
38. no / no
39. yes / no
40. yes /
41. yes / no
42. yes / no
43. yes / yes
44. yes / yes
45. yes / no
46. yes / yes
47. yes / no
48. yes / yes
49. yes / yes
50. no / no
51. yes / yes
52. yes / no
53. yes / yes
54. no / no
55. yes / no
56. no / no
57. yes /
58. yes / no
59. yes / yes
60. yes /

Full/Part
Time/Time

61. ---------
62. no / no
63. yes / yes
64. yes / yes
65. yes / yes
66. yes / yes
67. yes /
68. yes / no
69. ---------
70. yes / no
71. yes / yes
72. yes / yes
73. yes / no
74. yes / no
75. yes / yes
76. ---------
77. yes / yes
78. yes / yes
79. yes / yes
80. ---------
81. yes / yes
82. yes / yes
83. ---------
84. no / no
85. yes / yes
86. yes / no
87. ---------
88. no / no
89. / yes
90. no / no

Full/Part
Time/Time

91. no /
92. yes / no
93. no / no
94. ---------
95. yes / yes
96. yes / yes
97. no / no
98. yes / yes
99. yes / no
100. yes / yes
101. no / no
102. no /
103. yes /
104. yes / yes
105. yes / yes
106. ---------
107. yes / yes
108. yes / yes
109. yes / yes
110. yes / yes
111. yes / no
112. yes / yes
113. no /
114. yes /
115. yes / no
116. no / no
117. yes / yes
118. no / no
119. yes / yes
120. yes / yes

Full/Part
Time/Time

121. ---------
122. yes / yes
123. ---------
124. yes /
125. no / no
126. no / no
127. no / no
128. yes / no
129. no /
130. yes / yes
131. yes / yes
132. yes / yes
133. yes / yes
134. yes / yes
135. no / no
136. no / no
137. yes / no
138. no / no
139. yes / yes
140. no / no
141. yes / no
142. yes / no
143. no / no
144. no / no
145. yes / yes
146. yes / yes
147. yes / yes
148. yes / yes
149. no / no

	Full Time	Part Time
Total number of yes answers:	100	64
Percentage of yes answers to total number of responses:	72%	46%

Senator **Dodd**. Amen. I do not disagree with you at all, and I thank you for that, Zack, for your comments.

How do you like to be referred to, as B. Sue Medley-Lane?

Ms. **Medley-Lane**. Sue. They took that as——

Senator **Dodd**. Just Sue?

Ms. **Medley-Lane**. Yes. That will be fine.

STATEMENT OF B. SUE MEDLEY-LANE, CALL-A-NURSE, INC., ATLANTA, GA

Ms. **Medley-Lane**. I will just read a prepared statement here.

Senator **Dodd**. All right.

Ms. **Medley-Lane**. As a small business owner and a mother of a 14-month-old son, the issue of parental leave is an important issue. When making this policy, a lot of factors have to be considered such as loyalty and morale of employees, and cost to the company, as well as personal views and experiences.

At this time Call-a-Nurse Incorporated's policy for parental leave allows an employee up to six weeks, with three weeks being a paid leave after the birth or adoption of a child. The time may be extended up to an additional six weeks of unpaid leave with the right to continue benefits based on employee contribution. After twelve weeks or three months, a position would need to be filled by a permanent employee, if at that time the employee on parental leave decided to remain at home with the child.

However, this is our basic policy. Not everything can be concrete when dealing with people and their lives. We have an open-door policy when it comes to our employees and are glad to discuss with each of them any variances from our policy.

In planning a business, not all costs can be foreseen, but those concerning parental leave, unlike an unexpected illness, can be estimated and budgeted for and the business still remain competitive. With this in mind, our company cross-trains most people so that if a key position is vacated for a specific time temporary help need only be hired for a short period of time or on a part-time basis with basic skills needed.

I feel that legislation should be passed to set a minimum standard, giving the rights to a parent to remain home during the crucial period of a child's life and adjustment period for the family over the first six to twelve weeks without having to worry about job security. If left to companies, which are mostly owned and operated by men, I do not feel the issue will be resolved in a favorable manner to the families. After a minimum is set, only a business owner knows the value she places on the loyalty, experience and the morale of her employees.

I believe we all have a responsibility to our future, and our future is in the hands of our children, so should not we see that they get the best beginning possible.

Senator **Dodd**. Thank you very much.

Mr. Hirsch, we welcome you.

STATEMENT OF JACK HIRSCH, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, ATLANTA, GA

Mr. HIRSCH. Thank you, Senator. I appreciate the opportunity to be here this morning.

As stated earlier, I am here on behalf of the National Federation of Independent Business, of which I am a member. I too, am a father. My wife went through five miscarriages, we have two children, the first of which is adopted, the second of which is not.

Many of my clients with whom I have spoken, as well as other members of NFIB and my partners have expressed great reservations about this bill and the problems it would pose for the small business throughout our country.

In our firm, we give our employees—I would like to rephrase that, our employees earn fully paid hospitalization and major medical coverage, term life insurance benefits, long-term disability insurance, paid vacations ranging from two to four full weeks depending on length of service, allowances for overtime pay, sick leave of up to 40 hours per year for the first year of employment, increased by an additional eight hours for every year of employment, time off for jury duty and other civic service, paid holidays and paid continuing professional education of up to 40 hours per year.

We, too, have an open-door policy toward our employees and their particular needs, and we find that most of our clients, if not all, have the same policies. As you have heard from other witnesses, a businessman's greatest asset is his staff, and staff is deserving and who does not take advantage of situations will certainly find—at least it has been my experience—an employer anxious, not just willing but anxious to work any personal problems through with the employee.

We have had situations amongst our clients where company-paid psychiatric help was offered and given. We have never fired anyone for excessive sick leave or excessive parental leave. Most of our staff people are ladies, and we have had parental leave as recently as this year, and right in the middle of tax season which is our busiest time, of course, without any affect on the staff person who has since come back to work and is enjoying the same benefits she had before.

Despite the fact, though, that all our professional employees are technically trained, and in many cases have experience in the field of public accounting prior to joining our firm, we have experienced that there is an additional training curve period of approximately three to six months during which time new staff members are only partially productive.

Our business is a seasonal one. In years past we have attempted the use of temporary professional talent. Our experience with these endeavors was extremely unsuccessful on the professional level, although it has been successful on a secretarial level or administrative type level, and it has been very costly because of the long training period required for the newly hired professional staff.

Our firm, as well as most of our clients, consider the mandatory parental and medical leave to be a very unacceptable alternative to the present system of mutual accommodation and cooperation between employer and employee. Finding replacement personnel on a temporary basis simply does not work in the professional and/or business environment for various reasons, not the least of which is the lack of incentive on the part of the temporarily hired employee.

S. 249 while creating a mandatory situation for the employer, does not do likewise for the employee. We have experienced a situation wherein the mother-to-be informed us of her intention to return to work on a full time basis after an agreed upon time, only to be informed after having held the position open at great additional cost and strain on the part of co-workers that she had changed her mind and had now decided to either work part-time or not at all. If such a change of mind should occur after August 31st of a given year, it would be almost impossible to hire and train a replacement for the busy tax season.

Senator, history has proven that small business is the cornerstone of our economy, it is responsible for a vast majority of the new jobs created therein.

History has also proven that small business and its backbone, the men and women who make up its work force, have successfully addressed and managed their respective needs through mutual understanding and sensibly working together without the interference of federal government.

Among the many things that made this country so great is the independence afforded us by our constitution. Federal intervention has never helped the economy of this or any other nation, much less the individual. It is high time that Congress realized that no matter how well intended, it is not capable of resolving the problems, real or perceived, of our populace. I submit to you that if New York City or the city of Atlanta, or any other areas of the country, have identical problems, which in fact we do not, the solutions to these problems would vary greatly from area to area. For this reason, if no other, I submit to you that if problems do exist they are best resolved on the most local of levels, in this case the employer and the employee level.

In those instances where temporary personnel is readily and cost-effectively available, i.e., the temporary absence of a telephone receptionist, the employer can and usually will accommodate the temporary absent employee. On the other hand, there will be many instances where because of training and the learning curves for new employees temporary replacements will not be available and will be too costly to consider.

As a father and a grandfather, I am very concerned about our national deficit. I wonder if Congress' efforts would not be better directed at this monumental task. which is the direct result of its mismanagement, rather than to get involved in the management of American business, which has survived, not because of our government's interference but, Senator, I suggest to you despite it.

Thank you for the opportunity to express my views.

[The prepared statement of Mr. Hirsch follows:]

STATEMENT OF JACK HIRSCH FOR NFIB BEFORE THE SUBCOMMITTEE, FAMILY, DRUGS AND ALCOLHOLISM OF THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE

SUBJECT: Parental and Medical Leave Act of 1987, S. 249

DATE: October 13, 1987

Mr. Chairman, members of the Subcommittee, my name is Jack Hirsch. I am a Certified Public Accountant in private practice, one of the founding partners of Hirsch, Babush, Neiman & Kornman, a local C.P.A. firm representing small businesses in varied fields and endeavors. I am here today on behalf of the National Federation of Independent Business, of which I am a member.

I would like to start off by thanking the Committee for the opportunity to testify on S. 249, the Parental and Medical Leave Act of 1987. Many of my clients with whom I have spoken, as well as members of the NFIB and my partners, have expressed great reservations about this bill and the problems it would pose for small business throughout our country.

Hirsch, Babush, Neiman & Kornman was founded in 1977 and is the outgrowth of the previous partnership of Hirsch, Babush & Company which was founded in 1964, which in turn was the outgrowth of the sole proprietorship of Jack Hirsch, CPA which was founded in 1954. The firm started out with one employee and now has approximately forty personnel including seven partners. The benefits our employees receive are:

1) Fully paid hospitalization and major medical coverage.

2) Term life insurance fully paid for by the company.

3) Long term disability insurance fully paid for by the company.

4) Paid vacations ranging from two to four weeks depending upon length of service.

5) Allowances for overtime pay.

6) Sick leave of forty hours per year for the first full year of employment increased by an additional eight hours sick leave for each additional year of service.

7) Time off for jury duty.

8) Six paid holidays.

9) Paid continuing professional education of 40 hours per year.

Despite the fact that all of our professional employees are technically trained and in many cases have experience in the field of public accounting prior to joining our firm, we have experienced an additional training curve period of approximately three to six months during which time new staff members are only partially productive.

Our business is a seasonal one. In years past we have attempted the use of temporary professional talent. Our experience with these endeavors was extremely unsuccessful and costly because of the long training period required for the newly hired professional staff.

Our firm, as well as most of our clients, consider the mandatory parental and medical leave to be a very unacceptable alternative to the present system of mutual accommodation and cooperation between employer and employee. Finding replacement personnel on a temporary basis simply does not work in the professional and/or business firm environment for various reasons, not the least of which is the lack of incentive on the part of the temporarily hired replacement.

Our firm has gone through several maternity leaves, most of which worked out mutually satisfactorily.

S.249, while creating a mandatory situation for the employer does not do likewise for the employee. We have experienced a situation wherein the mother-to-be informed us of her intention to return to work on a full-time basis after an agreed upon time, only to be informed that she changed her mind and has now decided to either work part time or not at all. If such a change of mind should occur after August 31st, it would be almost impossible to hire and train a replacement in time for the busy tax season.

History has proven that small business is the cornerstone of our economy and is responsible for a vast majority of the new jobs created therein.

History has also proven that small business and its backbone, the men and women who make up its workforce, have successfully addressed and managed their respective needs through mutual understanding and sensibly working together without the interference of the Federal government.

Among the many things that make this country so great is the independence afforded us by our constitution. Federal intervention has never helped the economy of this or any other nation, much less the individual. It is high time that congress realized that no matter how well intended, it is not capable of resolving the problems, real or perceived, of our populace. I submit to you that if New York City and Atlanta, or any other areas of the country, had identical problems, which they do not, the solutions to these problems would vary greatly for each area. For this reason, if no other, I submit to you that if problems do exist, they are best resolved at the most local of levels; in this case at the employer and employee level.

In those instances where temporary personnel is readily and cost-effectively available, i.e., the temporary absence of a telephone receptionist, the employer can, and usually will, accommodate the temporary absent employee. On the other hand, there will be many instances where, because of training and learning curves for new employees, temporary replacements will not be available and will be too costly to consider.

As a father and grandfather, I am very concerned abut our national deficit. I wonder if Congress' efforts would not be better directed at this monumental task, which is the direct result of its mismanagement rather than get involved in the management of American business, which has survived, not because of our government's interference, but despite it.

Thank you for the opportunity to express my views.

Senator DODD. Thank you, Mr. Hirsch.
Mr. Thompson.

STATEMENT OF DANIEL J. THOMPSON, JR., SOUTHERN BELL TELEPHONE & TELEGRAPH CO., ATLANTA, GA

Mr. THOMPSON. Thank you, Senator Dodd.

I am Daniel J. Thompson, Jr., and I am Vice President-Personnel with Southern Bell Telephone & Telegraph Company, which is a wholly owned subsidiary of BellSouth Corporation. Both Southern Bell and BellSouth are headquartered in Atlanta. BellSouth employs over 96,000 people, primarily in the nine Southern states, four served by Southern Bell—Florida, Georgia, North and South Carolina, and five served by our affiliated company, South Central Bell—Alabama, Mississippi, Louisiana, Tennessee and Kentucky. However, BellSouth Corporation is also involved in various business activities throughout the world.

We appreciate the opportunity to share our views with you on the issues addressed by S. 249, Parental and Medical Leave Act of 1987. We agree that labor, government and business each have their own contributions to make in addressing the needs of the family in the workplace. The blending of the family unit's needs with business' requirements is essential if we are to survive and prosper in the marketplace.

For all but our most recently acquired companies, BellSouth provides significant nonpaid leaves prior to a child's birth, and newborn child care leaves up to six months after birth or adoption. We also allow personal leaves to care for a sick family member, subject to the needs of the business. And, when an employee is sick, we have short-term disability benefits that provide salary continuation for periods of time based upon that employee's length of service.

The particulars of our various programs are presented in considerable detail in my written testimony. I would like to highlight, however, that in 1986 we granted 1,868 leaves, of which 778 were for anticipated disability primarily associated with maternity, and 651 were for care of a newborn child. This record demonstrates that we at BellSouth have acted responsibly to accommodate the needs of our employees, while managing the business in an efficient manner. Our plans are based on our experiences, the demographics of our work force, the constraints of our budgets and the service demands of our customer bodies. We recognize that these circumstances vary from industry to industry and from company to company across the country.

One characteristic of our leave program is the ability to plan for and monitor authorized leaves. Through this process we can assure that our business will continue to function well and that there is proper justification to grant the requested leave. In a maternity case, the need for an anticipated disability leave or an employee's desire to take a care of newborn child leave is generally known in advance; therefore, management has time to properly plan for that absence. Personal leaves to care for family members must be approved by our Benefits Committee. That committee bases its decision on service requirements and the availability of other resources to meet the anticipated customer demand.

BellSouth has developed extensive forecasting systems and attendance policies and programs in an effort to ensure orderly handling of the business in an economic manner. Absences on an incidental, nonscheduled basis without consideration of business circumstances would create an environment where it would be impossible to forecast our needs or staff our operations properly to meet customer demand.

We have addressed the issue of parental leave separately from the issue of sickness and disability. We feel that we have a greater obligation to our employees than we do to their dependents, particularly with the growing number of childless employees and the number of families in which both parents are employed such that the cost of dependent care can be shared with other employers.

In developing all of our plans, we have constantly required our employees to be strictly accountable for their attendance, and we have applied those attendance, leave and disability policies in a manner that we believe to be fair and consistent throughout the respective employee bodies of our various subsidiaries. Without such controls, we would be unable to provide the quality service that our customers expect and demand.

I would like to commend you, Senator, and your committee, your subcommittee for its concerns for the individual employee. As evidenced by our leave policies, we at BellSouth share these concerns. We constantly review our leave and benefit programs and the impact they have on the efficiency of the operations of our large and small entities alike, and on telephone subscribers and our other customers.

Thank you very much for this opportunity to comment on this important matter. BellSouth would be pleased to work with this committee in an effort to ensure that any action which is taken is in the best interest of all concerned.

[The prepared statement of Mr. Thompson, Jr., follows:]

TESTIMONY OF BELLSOUTH CORPORATION

PRESENTED BY

DANIEL J. THOMPSON, JR.

VICE PRESIDENT - PERSONNEL

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

ATLANTA, GEORGIA

CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM SUB-COMMITTEE

OF THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE

S. 249

OCTOBER 13, 1987

My name is Daniel J. Thompson, Jr. and I am Vice President - Personnel with Southern Bell Telephone and Telegraph Company, which is a wholly owned subsidiary of BellSouth Corporation in Atlanta, Georgia. Over 96,000 people are employed by BellSouth and its subsidiaries, which include Southern Bell, South Central Bell, BellSouth Services, and numerous unregulated subsidiaries involved in lines of business such as directory publishing, equipment sales, cellular communications, and international ventures. Although most of our business is conducted in the states of Florida, Georgia, North Carolina, South Carolina, Alabama, Mississippi, Louisiana, Tennessee, and Kentucky, we are also involved in various business activities throughout the world.

We appreciate your invitation to express our views on Senate Bill 249, discuss BellSouth's Leave policies, and address the impact of this legislation on our business. BellSouth agrees with the sponsors of the Bill that the family unit is changing and that the needs of the family members in the work force must be recognized. We believe employees should be able to participate in early child-rearing and that employees should be allowed to take reasonable leave in case of the birth or adoption of a child. The fact that BellSouth has responded to these concerns is evidenced by its generous Care of Newborn Children Leave (CNC) and other policies which respond to employee needs for time to recover from illness or care for sick family members. Many of these benefits have resulted from negotiations with our unions and reflect a necessary balance between accommodating the needs of our employees while retaining the freedom to efficiently manage the specific types of businesses we conduct.

The leave policies I am about to describe for the treatment of maternity and care of newborn children apply to the great majority of employees in the BellSouth Companies. We provide an Anticipated Disability Leave (ADL) which allows an employee to take an unpaid leave within 6 months of the disability or delivery date. An employee may take ADL regardless of her length of service and without establishing disability, although she must provide information that the anticipated disability exists. Moreover, she retains a guaranteed right of reinstatement and is paid sickness benefits for the period during which she is disabled and retains certain death benefits as well as basic group life insurance. An employee on ADL may also continue dental and medical coverage at the employee's own expense. During confinement and the period following the birth of a child, the mother is covered by the Sickness and Accident Disability Plan until she is free from disability and able to return to work. During this period of disability, she receives certain company-paid benefits and salary benefits determined by her length of service with the Company.

When the employee is able to return to work, we offer a Care of Newborn Child Leave. This is an unpaid leave which extends until the child reaches six months of age or until the ADL, disability, and CNC total 12 months, whichever occurs later. The employee has full reemployment rights in either the same job or a job of comparable level at the end of the disability period and when the child is six months old. A father may also take CNC leave. Following an employee's return from ADL or CNC leave, the employee's service is bridged and benefits and vacation rights are continued. Generally after the child reaches six months of age, the parents may take a personal leave by obtaining approval of our Benefits Committee when a child or parent is ill. Although this personal leave is unpaid, the Company gives certain preferential consideration for reinstatement to those employees for a period of up to 2 years after the expiration of the CNC leave. Personal leaves allow the employee to continue Company benefits at his or her own expense for the period of the leave.

When service requirements permit, the Company also makes available to employees a thirty day unpaid departmental leave which continues all benefits at Company expense and guarantees reinstatement to the job at the expiration of the leave.

Employees who are sick and unable to work are covered by both a short term and long term disability plan. The short term plan allows an employee to be absent from work for up to a year with guaranteed reinstatement rights and with the Company paying all benefit costs as if he or she was an active employee. The salary continuation is either 50% or 100% based upon length of service. Employees with 25 or more years service receive full pay for the entire period of the leave. After expiration of the short term disability provided under the Sickness and Accident Disability Plan, an employee with 6 months of service is entitled to long term disability that pays up to 50% of pay for a certain period of time depending on the circumstances.

One of the five BellSouth corporate values is "Respect for the Individual". It is apparent that without legislation, BellSouth has adhered to this value by developing leave policies and employee sickness benefits which recognize the needs of the individual employee. In 1986 we granted 1,868 leaves of which 778 were ADL and 651 were CNC, which demonstrates that we live by our Corporate values and reflect them in applying our leave policies.

Although the granting of these leaves creates appreciable administrative burdens, they are designed to accommodate our employees yet allow management to staff the business to satisfy service requirements. We have the flexibility to tailor our policies to those requirements based on our experience and expense limitations. BellSouth opposes legislation mandating uniform leave policies and related mandatory, employer-paid medical expenses for all companies regardless of the nature of the business and its work force, the size of the company, the company's financial situation, the location of the facility, and other factors unique to specific types of businesses and specific jobs. While it is apparent from observing BellSouth leave policies that the Company shares the Committee's concern for interest in the welfare of the employee, we oppose Senate Bill 249 for several reasons.

The freedom of an employee to spread 18 weeks of leave over a 24 month period or 26 weeks of leave over a 12 month period on an intermittent basis as the Bill proposes will have a serious adverse impact on the administration of our work force and on the operation of our business. One of our major responsibilities is the providing of quality telephone service under all circumstances. Our current leave policies provide management controls for all leaves except ADL and CNC which are easily supported by documentation and can be planned for well in advance. Although we are a relatively large Company, we have many separate facilities which operate for purposes of budgeting and scheduling like individual small businesses. In all of our companies, including the two telephone companies which are regulated by the state Public Service Commissions, each facility is staffed to meet the needs of that facility and its service requirements. Serious efforts are made to control costs by limiting the size of the work force to the level necessary to perform the job. Structured scheduling rules have been developed so that, barring emergencies, management can plan for the level of work force necessary to meet needs of the business. This legislation would allow an employee to work reduced work days and work weeks whenever that employee desired on a completely intermittent basis subject to virtually no notice requirement. We do not maintain a pool of replacement employees to substitute on short notice when an employee decides to suddenly work a reduced work day or take a day off without consideration of service requirements or of how many other employees in the group are absent for some other reason. The casual way in which an employee could miss work would seriously impact the service provided to telephone subscribers and other customers served by BellSouth companies. Management would have difficulty maintaining control of the budget and planning process which now allows orderly scheduling of time off so that the needs of the business can be met. Intermittent leave would place management in a position of not knowing whether to train a temporary replacement for a skilled employee because it could never be sure whether that employee would take the entire allowed period in consecutive days or decide to take it a day or two at the time.

BellSouth and most other companies have developed attendance policies and programs which assist in the orderly operation of the business, in the efficient provision of customer service, and in accurate evaluation of an employee's performance. This legislation would virtually eliminate attendance requirements for employees with children or sick relatives even though the many employees not covered by the legislation would be required to comply with our long-standing attendance rules. This would be very unfair to those employees not covered by this legislation and result in a virtual double standard of job performance evaluations.

As previously mentioned in my testimony, the issues of whether benefits are provided at Company expense or whether our employees have rights to maintain certain benefits at their own expense depend on the type of leave involved and other factors which have been developed over the years. Requiring that a Company provide full medical benefits for employees during all periods of non-work which could extend as long as half a year would substantially increase cost to the Company and ultimately to the telephone subscriber and other consumers. This would also discriminate against those employees not covered by the Bill who not only must work and comply with scheduling and attendance requirements but must also pay for their own benefits when on personal leave. Another problem which would create an administrative dilemma if this legislation were passed is the question of whether to replace an employee taking advantage of the leave provisions. Since management would not know whether the employee would be taking the leave a day at a time or in consecutive days, many employees may have to be replaced by temporary employees or current workers would be required to work overtime in order to reduce the risk that insufficient numbers of employees would be available to perform the job. Temporary replacements would also be entitled to rights such as intermittent leave, full benefits, and reinstatement which would result in an impossible administrative and planning situation. Moreover, the reinstatement provisions would completely supersede the reinstatement rights set forth in the Working Agreements bargained between certain BellSouth Companies and their unions which considered the specific characteristics of the Company and its employees.

I would like to commend the Committee for its concerns for the individual employees of this country. As evidenced by our leave plans we at BellSouth share these concerns. However, I urge you to consider the adverse impact that this legislation will have on efficient operations of large and small businesses alike, on employees not covered by the legislation, and on telephone subscribers and other consumers.

Thank you very much for this opportunity to comment on this proposed legislation. BellSouth would be pleased to work with the Committee in an effort to ensure that any action which is taken is in the best interest of all concerned.

Senator DODD. Thank you very much, Mr. Thompson, for that testimony.

Is it Cindia?

Ms. CAMERON. Cindia, that is right.

Senator DODD. All right.

STATEMENT OF CINDIA CAMERON, NINE TO FIVE SOUTHEAST FIELD OFFICE, ATLANTA, GA

Ms. CAMERON. I am in a real position of advantage here being the last on this panel. I have prepared testimony that speaks to my own experience. Since I have gotten to hear what other people have said, I would just like to make two responses to some of the objections of business and then I will read my remarks.

The first is that I do not doubt the sincerity of the business owners here in that they do provide adequate leave and speak with their employees, but I object to what is called mutual discussion between employers and employees, especially in the state of Georgia.

As a state legislator described earlier, it is an employment at will state. The employee has much less power and much less control over the leave policies, and that the final decision in our state rests sole in the hands of management, and that as a member of an advocacy organization of women we get calls from the women who work for renegades, for those people who are not like the men and women represented here, men who do not engage in mutual discussions with their employees, so while I am very appreciative of the good policies that have been described the reason for legislation that protects people is for exactly those people who do not work for yourselves here, but work for employers who are not willing to discuss and understand a serious illness, an adoption or a birth.

The second point is the objection about highly trained individuals, professionals who are hired to replace a receptionist or a secretary. Those people I think, a CPA, a special-ed teacher, a lawyer, are precisely the people who are much more eager to get back to work. They have a profession, they have many years of training, they have a devotion not only to the business and the job that they have, but to their profession, and I know that businesses make accommodations for vacation and, as one of the gentlemen suggested, long-term disability, and if companies regularly, and it is a practice to let professional employees have two to four weeks vacation and long-term disability, surely they can accommodate what is likely to be six weeks at the most for a woman who has a child.

So saying that, I would like to talk about my own experience.

I appreciate the opportunity to testify in support of this bill. I am speaking today as an employer, as a parent and as an advocate for working women. This bill can help improve employer productivity and morale, it can help new families get off to a sound start, and it can provide basic fairness and security to working women who will soon make up over half of the total work force in this country.

In 1985 I was the staff director of a very small nonprofit organization which had 100 percent of its staff on paid maternity leave within a single year. There were two of us working for the Atlanta chapter of Nine to Five. The first to have a child was my coworker. Since my duties as staff director included the responsibility for raising the budget as well as signing pay checks, it was hard for me at first to deliver a pay check to a staff member who was at home with her daughter while I was alone in the office with the full responsibility of keeping the organization running, but the benefits to our organization were clear. We made a commitment to this staff person, and she in turn gave our organization back her accumulated skills and experience, and now a renewed sense of commitment. It was her responsibility to see that her work was rerouted, postponed, transferred or otherwise covered while she was on leave a total of eight weeks fully paid.

About seven months later I had a child. I had learned from the first maternity leave that the organization would survive my absence. I made plans to have my responsibilities covered by the other staff or by volunteer board members, and I stayed in touch with the office by phone. I was out eleven weeks, eight weeks fully paid by the same small chapter whose yearly budget at the time was about $60,000.

It was hard for me to return to work when my son was eight weeks old, but I did. I simply could not afford to be without a pay check, and I felt a real commitment to the organization which had made it possible for my new family to have the time to establish strong bonds and a new routine.

I believe that if a two-person office of an organization run by and for low income working women cannot only survive, but thrive while guaranteeing not only job security but paid parental leave, then any company in this country can and should live up to the guidelines of the Parental and Medical Leave Act.

Nine to Five is an advocacy organization for women office workers. We run a job problem counseling hot line and receive I estimate around 100 calls per year from women who have been fired, harassed or forced out of jobs due to conditions related to pregnancy or maternity leave.

Beverly Wilkinson who testified earlier today is an extreme example, but she is only one of the many dozens of women who has called us for help. For most of these women, compassion is all we have to offer. There is no federal agency and no lawyer to refer them to for help in getting their job, their income or their family stability back.

Office workers who make up fully one-third of all employed women in Georgia, Tennessee, Alabama and North and South Carolina earn an average of less than $14,000 a year. Many of them are single parents or married to men who earn similarly low wages. Less than 10 percent are protected by union contracts. These women and their families desperately need job and income security. The vast majority of women we talk to are back on the job working 40 hours a week within six weeks of delivery. On the incomes they earn, they simply cannot afford to stay home.

The emotional and material costs to families who lose an income, and with it insurance coverage at the time of the birth of a child is tremendous. The cost to society of an uninsured family with no pay check mounts quickly, and the cost to employers of losing women who often have years of experience and dedication is significant and, it seems, overlooked in the discussion of the costs to business of providing unpaid leave.

We all benefit from a social standard which recognizes that working parents have a dual responsibility, to their employers and to the next generation.

Senator DODD. Thank you very much.

I thank all of you, you have been very patient.

I just want to mention a couple of things to you, because some of this stuff has been in the testimony.

First of all, Mr. Roark, GAO will have its own cost estimate next week or the week after when they come out with their report. The reason I requested that is because they are a pretty reliable and an objective arm of the Congress, both Republicans and Democrats use them. I do not know what their numbers are going to say. When I read your testimony that they would not have a cost estimate I got concerned because I thought that is what they were going to do. I got in touch with them, they said "No, no, we are going to have a cost estimate," so that will be coming out of it.

Secondly, I happen to think there are a couple of things we are going to have to change, not because I think we have to but because I think we probably should. One is the minimum period of time that an employee would be with a firm or an operation or business before they are eligible for leave.

There are some legitimate concerns that have been raised by fast food operators and others where a person is in for a couple of weeks and he is gone, so we are going to have to make some accommodations on that side.

There are other operations that employ only a few people. We have got the 15 employee criteria, but when you get into areas with like convenience stores or things in the same geographical area you have to set some standards there.

So we are still looking at this, and the point of having hearings like this is to get the kind of comments that have been raised at this hearing and the others in Chicago, Los Angeles, Boston and Washington, D.C.

Last let me mention something that has come out and it came out again here today, and I think it is worthwhile noting. I find that there is never a problem with the small or relatively small employer—now I am not talking 15 or less, but I am talking about where the employer and the employees know each other, people are on a first name basis. In those situations it is rare indeed when an employee faced with the kind of tragedy that—I know, Mr. Hirsch, you were sitting here and I saw you moved by it this morning, the testimony of that mother and father—it is a rare employer who when confronted with that situation would not respond as most human beings do.

The problem arises, as I see it, when the employer does not know the employee. That is often times the case in a large textile manufacturing operation—you have got to live by a contract and work procedures and the like, and the likelihood that the employer or the boss is going to know the people who are working on that line is diminimous. You have been there 37 years and I bet, Mr. Stone, you know as well as anybody, the difficulty of those situations. You have to have rules and regulations and, as such, you do not get that kind of interpersonal relationship that accommodates the needs of people who you do know. So, I see a larger problem with the larger businesses where you do not have that kind of relationship.

Lastly, with birth or adoption, you know it is coming and everyone starts to get ready for it and you are set up for it. With an illness it is very difficult to be negotiating with your employer while running back and forth to the hospital.

If there is any common theme in the testimony of the organizations, the national organizations it is the issue of mandate. The real concern is the whole idea of it being a mandated program.

Mr. HINTON. I think we could do it——

Senator DODD. Conceptually, you don't object to the idea of people being able to take leave without losing their jobs—you have even found that to be worthwhile. It seems to be a question of whether or not the government is going to impose it on the businesses.

Mr. HINTON. I think the business in the United States has done a whole lot better job in doing their job than the government has. [Laughter.]

Senator DODD. You are not going to get too many arguments in too many places.

I must say, Mr. Hirsch, I was amused listening to your testimony. As an accountant who is sitting there helping businesses figure out their taxes each year, you are aware there is a certain amount of help that the government gives businesses in terms of the tax issues, in the investment tax credits and a whole variety of other things that I think most business people would say have been helpful along the way.

Mr. HIRSCH. Senator, I do not believe you understand the Internal Revenue Code of 1986. [Laughter.]

Senator DODD. I voted against that bill.

Mr. HIRSCH. That is certainly to your credit. [Laughter.]

Senator DODD. It created a lot more confusion than anything else.

Mr. Roark, what about some of those distinctions I just made, the small business and the large business kind of distinction?

Mr. ROARK. Senator, let me say this. I was a bit surprised earlier when you indicated that you thought the problem was primarily with big business rather than small. Over the 25 years that I have been in business I have been with three Fortune 500 companies, and all three of those companies did provide parental leave, and sick leave for that matter, rather considerably in excess of what is required by this act.

Senator DODD. You are right, a lot of businesses are. I represent as many Fortune 500 corporations' corporate headquarters as any member of the Congress, except maybe Pat Moynahan from New York. I think the problem there is not the problem that they have or do not have, the problem is knowing the employees.

Mr. ROARK. Oh, I see. All right.

I do not think that is a problem, and I will give you an example out of my company, roughly half of which is apparel. The apparel side of our business employs 83 percent women, 83 percent of the work force is female.

Senator DODD. How big is your operation.

Mr. **Roark**. The apparel part of it is about 11,000 employees, and 32,000 employees in all of WestPoint Pepperell.

Those sewing machine operators in the apparel side of our business cost about $3,000 to train. When one of those women wants a maternity leave, we not only grant the maternity leave, we subsidize their medical benefits while they are gone, we continue their seniority, we do everything possible to encourage them to come back as soon as their seniority will bring them back in the situation they were before. That is a solid business decision. The fact that we may not know them personally does not influence that decision.

The concern that we would have about the legislation proposed is that now—and I think this applies more to the sick leaves than the maternity leaves—now we do have a hammer and when a leave is abused there is something we can do about it, and we see ourselves losing that right.

And the other side of this legislation that concerns us is the mandate hanging back there in the back of the bill that the possibility of this leave becoming paid will be studied, and I if that happens this will become a very, very major cost to American industry.

Senator **Dodd**. I think what you have discovered is that it is a lot cheaper to hire someone, if you have to, temporarily, or have someone fill in, than it is to lose that employee and have to go and rehire or retrain someone at 3,000 bucks or whatever it was.

Mr. **Roark**. I would put it a bit differently. Frankly, we do not hire replacements for people that are going on sick leave in the production areas. We have 30 percent turnover in that area, 20 to 30 percent, which is roughly I would assume the average for American industry. We are constantly hiring people to cover normal attrition, and this is a part of that. That does not concern us.

The point that I would make is that the disruption caused by these leaves is far more severe in some of the professional areas, certainly in businesses such as Mr. Hirsch's than it is with ours.

Senator **Dodd**. One of the points you made, and I think it is one we are obviously going to have to develop some standards on, is, what constitutes serious illness.

Mr. **Roark**. Yes, sir.

Senator **Dodd**. And obviously it would be foolish to suggest that leave should be granted for serious illness of a child without some standard set out. I do not know if anyone really objects to that, it is just a point to raise as well.

Yes, Mr. Stone.

Mr. **Stone**. I would like to get back to the question of big business, lots of employees, versus small ones where everybody is known. It is true that 37 years ago I knew probably 75 percent of the people that worked for my company, there were 1,800 of us at that time. There are 9,500 of us now, and I probably do not know 5 percent of them.

I do not have to make the kinds of decisions about who gets adoptive leaves or newborn care leaves, how long they will be and under what circumstance they will be for any employee except those that I know. The immediate supervision, the immediate first and second level above the employee makes those decisions. Those people know the employees that are involved.

What we have to provide on a corporate basis is a general guideline with discretion. I think anything that the government provides needs to be of somewhat similar nature, if it needs to be at all. General guidelines with some discretion available in order to take in to account the particular circumstances of the individual involved.

Senator **Dodd**. Would someone else want to comment on that? Yes, sir.

Mr. **Hirsch**. I would like to comment on a different point. As you stated earlier, I was here throughout the entire testimony this morning, and——

Senator **Dodd**. I think we came up on the elevator together.

Mr. **Hirsch**. Yes, I believe we did—and my heart went out to the witnesses whose testimony I heard this morning. I would appear to me that a very simple solution would be one that our company has adopted, and that is when an employee has an extended leave of absence we make the medical insurance available to them, albeit at their own cost, but nonetheless it is available, and many of the people who testified this morning were concerned about whether the person is losing their job and then no longer has the medical insurance with which to cover the medical bills in case of illnesses or accidents, so why not approach it from a workable solution, which does not cost the employer anything, incidentally, other than a little administrative time.

Senator **Dodd**. I hear you loud and clear, believe me. I do not believe in going around introducing bills for the sake of introducing bills, I think it is kind of silly. The problem is you have got 6 million employers in the country, a fraction of which, about 2,000, less than 2,000 that have any kind of child care support. I wish the world were made up of Jack Hirsches.

The problem is that does not go on, and that is the difficulty we face with this. Unfortunately, as you heard from those medical people who deal with these families all the time they are not isolated cases. That is the tragedy. It should not be a matter of state or local or federal legislation, you would like to think these things are going to happen because common sense would dictate it. The tragedy is it is not, and that is always the way it is.

If the laws were meant for the law abiding, we would not need anything in terms of enforcement or police protection. Unfortunately, there are so many who do not do what you do in that situation, and that is why we are confronted with this fact situation.

Let me ask you, at the same time I think you or someone else raised the issue of which is the better way to go. Someone suggested it is better to do it on a state and local level than on a national level. I do not know if you did, but I heard the testimony of the state representatives. I am told last year we had 26 states that had parental leave bills—I said 50, I apologize for that—there are 26 states that have bills pending, six have adopted them, so there seems to be a trend amove on the state level. I am particularly sensitive and appreciate the fact that these are matters that a lot of states would like to decide on their own, but I am curious from the business community, putting aside the question of whether you think there ought to be parental leave policies, would you rather have it established on a national standard, or would you rather go state by state by state as we are apparently moving? Which is it?

Mr. **Hirsch**. State by state by state.

Senator **Dodd**. You prefer the state by state?

Mr. **Hirsch**. I believe there is a big distinction between the responsibilities to the public from the federal government and from the state government, and it is my own personal opinion that the federal government has gotten involved in and messed up many too many areas.

Senator **Dodd**. Okay.

Mr. **Hirsch**. This may be only an idle observation, but my observation is that it was not until the federal government got involved in poverty that the rate or the number of poor people in this country raised so dramatically. It is also my observation——

Senator **Dodd**. Do you think it would have gone down had we not?

Mr. **Hirsch**. What is that?

Senator **Dodd**. Do you think it would have gone down had we not?

Mr. **Hirsch**. I do not know, but it certainly has risen. In other words, it seems to me that the federal intervention has had the exact opposite effect.

Senator **Dodd**. Do you want to comment on this?

Ms. **Medley-Lane**. Yes, I do. As a business owner who plans to go to other states in the very near future, it is difficult enough to determine the problems in each state without having to deal with the parental leave or the illness. If something was mandated by the federal as opposed to the state, because the states do seem to be very slow in activating anything, and once it—it is just like the principle of the—if you have got a problem, take it to the top man because it eventually falls down to the person it is supposed to be to. If you take the time to climb the ladder, it is going to take you three times as long.

Mr. **Thompson**. Senator, if I may make a point, there is something that I have not heard discussed this morning, and that is the cost of these types of leaves are essentially a form of compensation, and we make a policy judgment in our companies that in order to be competitive with the demographics that we see developing these types of programs make good business sense.

Everything that I read indicates today that going into the 1990s we are going to see a diminishing pool of entry level workers, and particularly of skilled and well educated workers, and to a large extent competition among businesses—our own business is becoming increasingly competitive, and for us to get and retain the good people we are going to have to we feel do these kinds of things, and I think that is a factor that needs to be factored in here.

Senator **Dodd**. I agree with that as well. I presume that is probably going to be part of it as well. I mean there is a—the demographics have cited almost a 100 percent growth in women in the workforce over the past two decades. I said 100 percent but it is a little less than 100 percent. And, the number of two-parent, two-earner households have gone up in excess of 52 percent in the last 20 years as well, and I suspect that is going to continue. So I think the competitive pressures are going to be there to encourage businesses to establish such policies. Of course, we have enjoyed over the recent time a good, strong, healthy economy, and, as someone pointed out, the percentage of employment has gone up. I think we are also holding our breath in a sense because we are a little overdue for a business downturn. What happens is that unemployment increases and you find those jobs become competitive and that works against what you are suggesting to some degree so you run that risk as well, but I appreciate your comment. It is helpful.

I thank you all for coming. Any other comments at all? I do not want to deprive anyone of the opportunity of responding to anyone else's testimony.

If not, I am very grateful to all of you, and we will send you if you are interested—and I presume you might be, Mr. Roark—the GAO study to take a look at it when it comes out with their estimates. Your suggestions are helpful in this and we look forward to them.

Thank you all very much.

The last panel of witnesses is from the community groups in the area. I am delighted to introduce Russell Osmond. Dr. Osmond is the Public Communications Director of the Southeast Area of the Church of Jesus Christ of the Latter Day Saints from Marietta, Georgia.

We have heard in the past from representatives of Catholic, Jewish and Protestant faiths in previous hearings; we are very pleased indeed to have Dr. Osmond with us here this morning.

Sharon Gary-Smith is ill, so I am told that Edna Jackson is filling in representing the National Black Women's Health Project from Atlanta, Georgia. Edna Jackson is the National Coordinator of the Church Outreach Project. The National Black Women's Health Project focuses on public education and advocacy with respect to such issues as infant mortality, teenage pregnancy, the general health and well-being of minority women in this country.

Qiyamah Rahman—how did I do?

Ms. **Rahman**. Rahman.

Senator **Dodd**. I did pretty well. Why don't you come on up and join the panel. She is with the Georgia Network Against Domestic Violence. Qiyamah is the Organizational Developer for the Georgia Network advocating legal, social and medical changes for the victims of domestic violence. Formerly a victim of family violence herself she is now the single mother of three children .

In fact, I should tell you, Qiyamah, that a bill that Senator Thurmond and I reauthorized, the Family Violence Prevention Services Act, was voted unanimously out of our committee as well. I do not know if you are aware of that or not. I should have given Senator Thurmond some credit as well. I try to give him credit wherever I can, he has been a helpful chairman on a number of issues.

Do we have Dr. Osmond?

[Pause.]

Senator **Dodd**. All right. We will proceed with you, Ms. Jackson, and then we will hear from Qiyamah and be glad to receive your testimony.

STATEMENT OF EDNA JACKSON, NATIONAL BLACK WOMEN'S HEALTH PROJECT, ATLANTA, GA

Ms. JACKSON. Thank you. I bring greetings from Sharon Gary-Smith who fell ill this morning, and I would like to read her statement to you.

I am Edna Jackson, Coordinator of Church Programs for the National Black Women's Health Project. The project is an organization designed, developed and directed by black women to explore the health status of the black family, particularly from the black woman's perspective.

The National Black Women's Health Project is dedicated to developing personal and community health advocacy on behalf of black women, their families and communities, and today I am testifying on their behalf.

I am pleased to have this opportunity to come before you. I trust that you will find an important viewpoint in my discussions that will provide you with a much needed and often missing or neglected perspective as you examine the potential impact of Senate Bill 249 under consideration.

The National Black Women's Health Project is a national health education, information, outreach, self-help development, empowerment and advocacy organization that has organized 66 self-help groups in 22 states, six in the Caribbean and three in Nairobi, Kenya.

Although relatively young, the National Black Women's Health Project began in 1981 as a major pilot program of the National Women's Health Network. The National Black Women's Health project has made considerable strides in assisting black women in addressing their key health issues and needs.

Our programmatic trusts have centered on the physical, mental, spiritual and emotional health and well-being of black women, and the self-help models necessary to create an environment in which black women can actively participate in determining what resources they require to improve their health status and what barriers stand in the way of changing their lives.

We stand strongly in favor of active support and endorsement of this significant legislation to establish in the strongest and most industrialized nation of the world adequate family leave and medical provisions. We believe that strengthening the family and providing it with the security to actively work and to care for its members when ill, without the threat of loss of job, is our strongest defense.

It is not difficult to recall the all-American apple pie family of yesteryear, that typical family in which the father was king of his castle and the sole breadwinner, that typical family in which the mother's job was to maintain the home front and rear their 2.6 children, but for the majority of black women, single head of the household wage earners the stresses of low paying jobs that offer few benefits, incentives or advancement opportunities produce a different bleaker picture.

Black women suffer disproportionately from chronic and debilitating illnesses and disease. Many of the most overwhelming conditions are stress inducing, living in communities which are often overcrowded and where housing is poor and substandard, where job options are dead end or have limited advancement options, where there is little access to quality affordable health care or social services. Additionally, most of these mothers are unable to afford adequate day care or take time off to care for their children because of jobs without medical leave or compensation.

For 51 percent of black families, women are the primary or sole breadwinner. These women fight a long and painful battle to support their children, nurture their families and keep their heads above the poverty line. Despite their best efforts they often fail.

Contrary to the outdated but still prevalent notion, the majority of black women work because of economic need and not to sustain a privileged mode of living. Nearly two-thirds of women in the labor force in 1984 were single, widowed, separated or divorced, or had husbands whose 1983 earnings were less than $15,000. 42 percent of all women supporting their children alone worked in the paid labor force in 1986. Put another way, one-fifth of the mothers in the paid labor force were single head of the households who were unable despite averaging 30 hours of work weekly to raise their families above the poverty level.

For black and Hispanic women, the picture is bleaker, for historically these women have been concentrated in low skilled, poorly compensated and nonprofessional jobs such as sales, service, clerical, crafts or light manufacturing. Seldom are these jobs the jobs with adequate provisions for paid leave, family health conditions or child care.

It is also important to note here that many would argue that genuinely concerned employers should be allowed the option of creating family and medical benefit plans to meet their employees' needs, and while we applaud those forward thinking corporate employers and other organizations who have spearheaded this effort, their numbers are relatively small and growing at an inadequate rate.

We further realize that something as far-reaching and necessary as realistic family and medical leave cannot be left to the individual generosity of employers who are, after all, in the profit making business. Moreover, for the majority of black women even an employer's good will will hardly change their circumstances. The necessity of work for them, most frequently in the most menial of jobs, and their need to sustain their families with limited benefits make them invisible in the work place and lacking voice at the bargaining table.

These women head up new American families, they are the victims of the triple whammy of racism, sexism and classism. They are disproportionately represented in new statistics. Between 1970 and 1985 the number of female headed families grew from 5.5 million to nearly 11 million. These are the mothers of children at risk, these are the parents of children who grow up too early, too quickly from the responsibilities of rearing brothers and sisters while mother must work. These are the parents of latchkey children because of the high cost of quality day care for the majority of working women.

For these children, Mommy must choose between working to support them or staying at home to nurse them through a health crisis. These are the vulnerable, those most in need of a broad based adjustable leave of absence policy that is mandated from the top down. These are the mothers who are too often neglected or overlooked when policies are considered. These are the frail voices that are not heard, but who have the responsibility for rearing tomorrow's leaders. And are we prepared today to support these families' futures?

The National Black Women's Health Project then wholeheartedly supports the proposed Parental and Temporary Medical Leave Act of 1987, it is an important crucial step in developing and applying a national policy that recognizes and emphasizes the significance of the family in our society. It supports the needs of all families, and nowhere is this support more solely needed than within black American families.

This legislative leadership displayed by you, Senator Dodd, and your willingness to address the missing link in support of families should be acknowledged and applauded.

We thank you for this opportunity to bring our concerns and our constituency to your table, and we look forward to the day we can toast your success.

Senator Dodd. Thank you very much.

Qiyamah, welcome.

STATEMENT OF QIYAMAH RAHMAN, GEORGIA NETWORK AGAINST DOMESTIC VIOLENCE, ATLANTA, GA

Ms. Rahman. On behalf of the Georgia Network Against Domestic Violence, I would like to express my appreciation for the opportunity to appear today at this hearing and to convey my support for Senate Bill 249, Parental and Medical Leave Act of 1987.

The stress of having a disabled child is overwhelming, but the added stress of being either presently in an abusive relationship or being formerly battered and having a disabled child is almost inconceivable. One almost cannot even conceive of trying to adequately meet the special needs of a disabled child while handling a job situation and all of life's other challenges as well as the horrible dynamics of an abusive relationship, and yet women do it. They do it because when one's child is ill that is the highest priority and yet that priority can oftentimes keep that woman in an abusive relationship. With a disabled child, there is the added reality that possibly she cannot make it without her partner's financial support, and what would become of her child then?

But should the violence finally drive her to terminate the relationship, then how would she support—then how will we, society support her decision and validate her right to live a violence free life? As a society we should place a high priority on caring for our children. Some of us know firsthand the challenges of single parenting, and we are all too familiar with the increasing feminization of poverty.

We must find ways to meet the needs of these courageous women or risk their returning because they are unable to maintain and sustain economic autonomy. Let us not force her or anyone to decide between economic security and parenting responsibilities. We can promote the stability of such families and make living conditions more favorable through the passage of Senate Bill 249. It is at least one less obstacle for her to face.

Thank you.

Senator DODD. Thank both of you very much, and you have been very patient, by the way.

I always apologize to the last panel, the only consolation to being last is that you get a chance to hear others, and so it gives you an opportunity to go through what I go through, and that is listening to a broad spectrum of views on these issues.

If I can, Ms. Jackson, one argument we hear is "Well, look, you provide this parental leave and so they get the benefits and then these women do not come back to work." Do you have any evidence or data that would contradict that from your studies?

Ms. JACKSON. I was surprised to hear that voiced, because in my experience, given the women that we have worked with, most women return to work too quickly than medically feasible or emotionally feasible for the child, and I know that returning to work is never an option for us, it is always a necessity and something that we do very promptly, so I have no evidence to support what he says.

Senator DODD. I do not know if you heard the gentleman from the Chamber of Commerce talk about one of their fears, and that is that a demand for paid leave will follow unpaid leave.

Many will make a very articulate argument on behalf of paid leave and, of course, many companies and countries provide paid leave programs. The suggestion is if it is not paid leave then this bill is only going to help those who are in that income level that can afford to take time off without pay and that women at the lower end of the income spectrum will hardly be helped. How do you respond to that criticism?

Ms. JACKSON. I tend to agree with that somewhat, because if it is not paid leave then it is not relevant. I still cannot stay at home if I am not having an income, but by the same token I think we have to begin somewhere, and my gut reaction is that I have been granted non-paid leave before—last year, for an example, my son took ill, he went into a coma for like three weeks and we never expected it, so we were in Orlando, we went to Disney World and it happened there. I had to stay in a hotel for three weeks.

I had enough money for a three-day vacation, and we ended up staying in a hotel for three weeks with no funds and this type of thing.

Granted, my office did grant me non-paid leave. That did not help my situation any, so——

Senator DODD. You pointed out the one fact situation that I agree with you on, and that is an illness.

With an adoption or new birth you do get the opportunity, you know it is coming——

Ms. JACKSON. Right.

Senator DODD [continuing]. So putting something away I think eliminates the argument, or not eliminates, but certainly significantly attacks the argument that this would only help those in the middle or upper income brackets that could afford it.

You are right on the illness situation, you cannot see that one coming, so unless you are affluent enough that you have got savings accounts or something put away it would be very, very hard.

I wonder, Qiyamah, if you might respond, do we have enough laws on the books? I am sorry Mr. Hirsch is not here because he could probably represent most purely the notion that the federal government is more a part of the problem than the solution in a variety of areas, most of them he would probably say. Others would say we have the 1963 Equal Pay for Equal Work Act, and the 1978 Pregnancy Anti-Discrimination Act—and that really we do not need more laws because those two should cover the kinds of fact situations you have addressed. What is your response to that?

Ms. **Rahman**. I think I possibly would have agreed prior to listening to the testimonies this morning, but there were too many families that were saying "It is not adequate and this is what happened to us as a result," so I would say that is not adequate.

Senator **Dodd**. I tend to agree with you on that point.

Do the lack of laws affect women who leave abusive situations and become single parents as much?

Ms. **Rahman**. As I sat down to prepare my testimony, I think that the aspect that I thought the most about was the woman who has decided to leave this abusive relationship and is really struggling to maintain a living for her family, et cetera, and how very, very difficult it is. That reality for her is not much different from other single-parent households where the woman is the sole source of income, but the fact is that this is an additional obstacle and barrier for her, and oftentimes when we have a whole list of factors as to why women either stay in or return to abusive relationships. one is because of the economic factor, so here you have a woman that has made a very difficult decision possibly after having struggled with that relationship for a very long time, looked at the fact that her children are going to be without a father in spite of the fact that he is abusive, and she has made this tremendous decision, and here she is still having to grapple with these issues in terms of possibly the company not having adequate parental leave and these kinds of issues, worrying every time the child gets sick "Is this going to be a prolonged illness? Is this something that I will be able to take care of?" and that kind of thing, so she has the same factors, plus some in terms of the reality that "I have severed this relationship and have made this decision and now I have to grapple with just the day to day realities of life."

Senator **Dodd**. I appreciate that. Again, I thank both of you for your comments.

We have one more hearing, as I mentioned, in Washington and then we will continue to see if we cannot get some more co-sponsors along the way. You are very gracious and patient in waiting to be the last panel. I want to personally thank you for that as well.

I want also before concluding these hearings to acknowledge the presence of Liz Savage who has been in the back of the room here. Liz is with the Epilepsy Foundation, and she has done a tremendous job at our hearings in Los Angeles and Washington and now here in Atlanta, and I want to thank her.

Marsha Renwanz who is sitting to my left is the Staff Director of the Subcommittee and does tremendous work. Jason Isaacson, my

Press Secretary, has been here as well and worked very hard. And there are others who have participated during these field hearings around the country, and I would like to think they helped give people, who cannot get to Washington, a chance to express themselves on legislation like this. I like to believe it has helped to hear from people we might not have otherwise heard from.

On that note, these hearings in Atlanta are concluded and the Subcommittee stands adjourned.

[Whereupon, at 1:37 p.m. the hearing was concluded.]

PARENTAL AND MEDICAL LEAVE ACT OF 1987

THURSDAY, OCTOBER 29, 1987

U.S. SENATE,
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:30 a.m., in Room SD-430, Dirksen Senate Office Building, Senator Christopher J. Dodd (Chairman of the Subcommittee), presiding.

Present. Senators Dodd, DeConcini, and Hatch.

OPENING STATEMENT OF SENATOR DODD

Senator DODD. The Subcommittee on Children, Family, Drugs and Alcoholism will come to order.

I'm very pleased this morning to call to order this hearing, the seventh and final, I might add, in a series that this Subcommittee has conducted on parental leave over the past eight or nine months.

We started this process back in February. In addition to holding two previous hearings here in Washington, we have traveled, in this Subcommittee, to Boston, Los Angeles, Chicago and Atlanta.

In all the cities we have heard the views of parents, professionals, business opponents and supporters, and community groups. By the close of today's hearing we will have heard from some 134 witnesses on this issue. I believe that that may be a new Subcommittee record for the number of witnesses to appear.

The rationale for setting that record was very simple. We needed to discover the cost to families, to business, and the nation of having parents being forced to choose between their children and their jobs.

As in all our previous hearings, this morning's witnesses will focus their remarks on a piece of legislation that I consider to be both profamily and probusiness, The Parental and Temporary Medical Leave Act of 1987, which Senator Arlen Specter of Pennsylvania and I introduced on January 6, 1987.

This bill would promote the economic security of families by providing for job protected leave for parents upon the birth, adoption or serious illness of a child.

It would also provide for temporary medical leave when a serious illness prevents a parent from working. All such leave would be unpaid.

We've been joined in sponsoring this legislation by several distinguished members of this Committee, including the Chairman, Senator Kennedy, and Senators Mikulski, Adams, Simon, Metzenbaum and Weicker.

Others who are not members of this Committee, but have taken the lead in cosponsoring, include Senators DeConcini, Wirth, Biden, Moynihan, Kerry and Gore.

In the coming weeks we look forward to having many of our distinguished colleagues join us in this effort to assist children and strengthen families across this country.

Our first expert witnesses this morning come from the General Accounting Office. They will give us an impartial, independent assessment of the cost of unpaid parental leave to business.

Right before our very first hearing in February of this year, the U.S. Chamber of Commerce announced that unpaid parental leave would cost employers $16.2 billion. Several weeks after the Chamber changed that cost estimate to $2.6 billion, citing the original figure as a worst-case scenario.

To insure that we would get an objective figure, Senator Specter and I requested the General Accounting Office to evaluate both the Chamber's cost estimates, and to come up with one of their own.

The GAO has spent the past eight months working on their assessments, so we look forward this morning to hearing their testimony.

Given the concern expressed in previous hearings about the special problems faced by small employers, we especially look forward to hearing testimony by the GAO and others on this issue.

Recognizing these problems, businesses with fewer than 15 employees would be exempted from the provisions of this legislation. That would mean that 80 percent of the firms in this country would be exempted from the provisions of this legislation.

As the General Accounting Office will confirm, however, only 29 percent of the work force is employed by businesses with fewer than 15 workers. Therefore, seven out of ten American workers would be eligible for job protected parental leave under the legislation.

In conducting hearings around the country we have tried to insure that members of the Senate and the public hear all sides of this story and this issue. We will do the same here this morning by hearing testimony from witnesses representing all viewpoints.

But we must bear in mind that the most important group affected by this legislation will not be testifying this morning, namely the one out of every four Americans who are children under the age of 18.

There is not a member of the United States Senate who would disagree with the fact that the changing demographics of our work force are having an effect on children and families. Today close to half of all mothers with infants under one year of age work outside of the home. That figure has doubled, I might add, since 1970, and shows no signs of abating.

In fact, 85 percent of all women working outside of the home are likely to become pregnant at some point during their careers.

We certainly were made aware of the movement of women into the labor force during our regional hearings. In Kentucky, seven out of every ten workers are now women in that state. In Georgia, the number of working women outside of the home increased by some 50 percent over the past nine years.

In Massachusetts, over the same period, it increased by 26 percent. In Illinois, the increase was by 17 percent, and in California, the number of women working outside of the home since 1977 has increased by 41 percent.

If you needed any further evidence on that score, you need only look at the rise in two-earner families in this country over the past two decades. In 1966, there were close to 19 million families in which both parents worked. Last year there were close to 29 million such families, an increase of over 50 percent in 20 years.

Likewise in 1966, some 27 million women worked outside of the home. In that same 20 year period, by 1986, that figure had soared to over 52 million women, an increase in excess of 90 percent.

The reasons for this are quite simple. Women are in the work force out of economic necessity. Two out of every three women working outside of the home today are either the sole providers for their children, or who have husbands who earn less than $15,000 a year.

And given that two out of every three children added to the poverty rolls since 1978 come from families in which one parent is working full time year-round, it is not too difficult to see the importance to families of having two wage earners.

In short, the wages of both mothers and fathers today are critical to the support of their families. It is important for us this morning to examine once again the question of which workers are most likely to benefit from an unpaid parental leave policy.

Some of the philosophical opponents of this legislation have dubbed it a "yuppie proposal," because it only provides for unpaid leave.

Across the country we have heard testimony on this issue from parents at all ends of the pay scale, and if we had been able to hear from all the parents who wanted to testify, frankly our witnesses' total would have run into the thousands, or tens of thousands.

Whatever their income level, the parents that we have heard from have stressed the importance of the job guarantee to them and their families.

Those who have adopted or given birth have testified about their ability to put money aside to tide them over while they took unpaid leave, and the parents of seriously ill children, who have not been able to plan, have spoken of the willingness of their neighbors and communities to help out during a period of unpaid leave.

What these parents have not been able to cope with is the loss of their jobs. To name just a few, we heard from a father in Providence, Rhode Island, who lost his job after taking six unpaid days leave to be at the hospital while his seven year old son was dying of leukemia.

A mother from Oregon testified about the hardship of losing her job as a television anchor after giving birth to a daughter. A security guard from Tarzana, California, told of the difficulties he faced after being fired for taking two weeks unpaid leave to be at the hospital with his son, born prematurely with a myriad of health problems.

And a secretary from Atlanta told of losing her job after taking six weeks unpaid leave with a newborn son. Equally compelling has been the testimony from countless adoptive parents of special needs children and their battle to get the requisite time off from work to qualify as adoptive parents in the first place.

As the Chairman who presided over all of these hearings, I can tell you that you did not have to listen to the testimony to know the difference between those parents who successfully have taken parental leave and those who have lost their jobs. You could see the difference in their faces, and hear it in their voices.

Many who lost jobs had to go on public assistance, at great emotional cost to themselves and financial cost, I might add, to the public.

Across the country we've also heard from a wide range of business supporters and opponents of the concept of parental leave. The supporters, some of whom have had policies in place for over a decade, have testified about the benefits that they have reaped, including increased productivity, employee morale, and competitiveness.

They have ranged in size from a total of 3 employees to 23,000 employees.

The opponents, some of whom have had model policies themselves, I might add, have all focused on a basic philosophical opposition to any Federal intervention.

Let me state for the record that you will not find a member of this Subcommittee or full Committee that takes Federal action lightly. But our hearing record shows, without a doubt, the need for a minimum Federal standard to protect both families and businesses.

And as states begin to enact a patchwork of policies in this area, some of the business opponents may become supporters of Federal action to insure continuity across state borders.

This morning we will again hear from the parents of newborn or newly adopted children, and of children who have suffered serious illness or injury, requiring hospitalization and an extended period of recovery. They will delineate for us the importance in their eyes of knowing that once they bond with that newborn infant, or newly adopted child, or once their child's medical crisis is resolved, they will have a job to return to.

Likewise, we will hear again from representatives of national business organizations, and from individual businesses. The GAO study should be of special interest to all the witnesses on the panel this morning.

The Administration has requested to express its views through the testimony of the Justice Department this morning. And last but not least, we will conclude the hearing by hearing from a wide range of community organizations.

In closing, it is important to remember the importance of parental leave legislation to other issues before this Subcommittee. Next week the Senate will vote on child abuse reauthorization, a bill, that I was pleased to introduce with my distinguished ranking minority, Senator Thurmond.

During our hearings on this legislation, we heard testimony on the relationship between severe economic stress and child abuse. Between 1985 and 1986, the death rate from child abuse soared by 23 percent in this country. Expert witnesses linked some of these deaths to serious economic hardship and unemployment.

Obviously, these economic issues are also being looked at in other Committees, but this Subcommittee ought to at least help guarantee that parents with jobs do not lose them because they have to spend unpaid time at home upon the birth, adoption or serious illness of a child.

Three years ago, I joined with some of my colleagues across the aisle to address the charges of medical neglect in what are termed "Baby Doe" cases. We succeeded in laying down procedures that states must follow in guarding against such neglect.

But all the work we did and have included this year in the child abuse bill makes no sense unless we can also guarantee that the parents of a "Baby Doe" can stay with a child at the hospital during those first critical weeks without losing their jobs.

Just as importantly, we have included the special needs adoptions program within the child abuse reauthorization. Special needs children are those without permanent homes, who have mental, physical or emotional handicaps. They are also older children who are members of sibling or minority groups.

This Subcommittee is doing everything possible to strengthen the special needs adoption program in this country. But until we make parental leave a national priority, countless prospective adoptive parents will be unable to take the necessary time from work to adopt in the first place.

This Subcommittee has traveled to New England, to the western region, to the center of our industrial heartland, and to the south, to hear from a myriad of witnesses on the issue of parental leave.

Everywhere that we went, parents, business representatives, policy makers and community leaders all spoke of the importance of families. We heard time and time again that it is the sense of family that has helped make this country great. Given our changing work force, changing economics, the pressing issue for families nationwide has become, in my mind, parental leave.

So this morning we conclude our series of hearings designed to bring the concerns of these families into focus.

Our first witness this morning is from the General Accounting Office, and I would ask the witness or witnesses from the office to approach that witness table.

We're delighted to have the General Accounting Office here with us again. When they testified at our April 23rd hearing, giving us an objective assessment of the different cost estimates circulated by the U.S. Chamber, they promised to come back and give us a cost estimate of their own.

They have kept true to their word, and we look forward to hearing both their estimate and description of the methods they used to arrive at it.

William Gainer is the Associate Director of Human Resources Division of the General Accounting Office. He is accompanied by Stephan Backus, who is the Group Director, and Sigurd Nelson, the Senior Economist with the GAO. We appreciate all three of you being here, and I personally want to thank you for the work you have done on this issue, but also as you should hear—and I'm sure you do—the thanks from all of us in Congress for the tremendous work the GAO has done over the years in providing good, objective analysis of proposed legislation and the like. So we're anxious to hear your testimony.

STATEMENT OF WILLIAM J. GAINER, ASSOCIATE DIRECTOR OF HUMAN RESOURCES DIVISION, GENERAL ACCOUNTING OFFICE, WASHINGTON, DC, ACCOMPANIED BY STEPHAN BACKUS, GROUP DIRECTOR AND SIGURD NELSON, SENIOR ECONOMIST

Mr. GAINER. Thank you, Mr. Chairman. We're always happy to come up here and assist the Congress in any way we can, and we are particularly happy to be here today to provide what I agree with you will be as objective an estimate of the cost of this bill as we possibly can make.

I also, in this kind of situation, always caution people that estimating the future, or predicting the future, is a dangerous business to be in. But we've done everything we could to look at the literature on this topic, a myriad of studies done by both proponents and opponents of the bill on the general concept.

We've also done an extensive survey of 80 small, medium and large firms in two major labor markets—Detroit, Michigan, and Charleston, South Carolina—to verify and add some information on two topics in particular which we felt were necessary to make our estimates: the extent of usage of parental leave, and the extent to which employers have difficulty coping with absences when they occur.

I'd first like to summarize some key points about our conclusions, and then go into each of the provisions separately and talk about our estimate on each one.

The large chart to your right, to the audience's left, points out that we think the only substantial cost that employers are going to face as a result of this legislation is the continuance of health insurance coverage. We estimate that that will cost perhaps $25 per week for employers, on average. It would be higher for some employers, and lower for others, based upon the extent of coverage they have, but that's the average cost.

The cost of replacing employees which was a significant part of the Chamber's estimate when they appeared before the Committee, and in the estimates that they provided to you in writing, was combined with some productivity loss estimates that they made, one of the largest costs involved.

We find, however, that less than one in three employees is replaced, in our survey. It could be a bit higher or a bit lower than that, but all in all, when you consider the wage savings that employers experience for those who are gone, and the fact that employers generally believe that they are able to maintain output and handle their workload when absences occur, we believe the cost in that area is negligible.

We also found that employees generally use available sick leave, annual leave and disability leave whenever they can before they resort to unpaid leave. So in that sense, the incremental cost of this legislation is less because employees are going to use leave they already have available under their existing benefit packages.

We also find that the expected leave usage under all of the provisions of the bill is less than the maximum provided under the legislation.

And when you look at all the factors, and providing what I think is a conservative estimate—that is, a high estimate of the costs—we believe the total cost will be less than $500 million.

With regard to the leave for the care of new children provision, I've summarized a few facts on the next chart which underlie the method we used for estimating the cost.

First of all, in previous estimates the usage rate has been estimated anywhere from two to four to five million persons per year. We looked at the current population survey, which gives us a good estimate of the number of women in the work force with children under age one, and we think they're the ones who are most likely to take advantage of this kind of legislation.

In the U.S., in firms with very lucrative, or very good, parental leave policies presently, in foreign countries that have mandated policies, in states that have mandated policies for parental leave, very few men use this kind of leave. So we think that you're down to an estimate of about 1.6 million working women who have children below the age of one year.

In terms of expected leave usage, there is really no source of hard data on leave usage. It's not something that employers keep real careful records on. But in the 80 firms that we looked at, and in the literature that's available, you generally find that most employees take less than 12 weeks. In fact, the vast majority of employees take less than eight weeks of parental leave.

We've broken our estimate into two parts. Employers, I think, are rightfully concerned about an employee who takes the 18 weeks and then doesn't come back to work. So we've put in an upper bound estimate for that. Based on the current population survey, we think that at most 36 percent of those eligible could take the full 18 weeks and then resign their positions.

I think that provides kind of a high estimate, because a lot of those people who don't come back to work let their employers know that when they leave. And I don't think this is a common behavior pattern.

For 64 percent, and that's based again on the current population survey, who have a young child and then return to work after the absence, we've assumed an average length of 12 weeks. In both cases, I think those are high estimates.

In terms of existing leave policies, we used data from small, medium and large firms, from our surveys and from the literature, to come up with a weighted average of 29 percent of women who have short-term disability leave of six weeks. And we factored that amount of leave out of the cost estimate, because that's a benefit already available to employees.

In terms of the expected cost, it adds up to less than $340 million, and we, again, believe that's a conservative estimate.

As regards the leave to care for sick children, it's a little harder to estimate, but we've used the best information available, and what we think are reasonable assumptions, to come up with an estimate of less than $22 million for this provision.

Likely beneficiaries under our estimate are those parents who have children who experience more than 31 days of bedrest during a year. There were 109,000 such children last year, and we assumed that for each of those children, one parent would take off the full length of the absence. The average number of days bedrest for those with over 31 days, was 9.6 weeks, and our assumption then is that every day of that nine weeks would be taken off by one parent.

In terms of existing leave policies, our surveys and other literatures show that parents currently make every attempt to take annual leave when they have to be off for an absence of a child, and that they avoid taking unpaid leave wherever they can.

So our assumption that they take the full 9.6 weeks, and that they, in fact, take about 6 weeks paid of unpaid leave, again I believe is conservative, and that gives us the $22 million estimate.

On the temporary medical leave for employees, we used a similar methodology. From a national health survey, we took the number of workers who experienced extended periods of bedrest during the past year, and that gives us 1.1 million workers. We assumed that the absence would be 9.8 weeks, which is the average illness length shown in the data base. We factored in the 29 percent disability leave, or the fact that 29 percent of employees are believed to have that disability leave already, and we come up with an estimate of $138 million.

I'd like to talk in a little more detail about the employment replacement cost, and productivity losses, which featured so heavily in the Chamber of Commerce's estimate.

Our analysis, as I said earlier, leads us to the conclusion that there will be no effective cost for replacing employees. The Chamber's methodology assumed that 100 percent of workers would be replaced, that there would be a premium on the replacement wage. That is, you'd have to pay higher wages to the replacement than the worker who is absent, and that the replacements would, in general, be less productive than the people they replaced.

These assumptions lead to what we have said, and maintain, is a greatly overstated estimate of the cost of the legislation. Based on the literature, and our survey of 80 firms, we come up with two major conclusions.

First, the cost of replacement of workers was generally similar to those wages for the people who were replaced, and in general, employers believe that the productivity, the output of the organization, is maintained, and that though there are some problems when a key employee is absent, that in most cases the work continues apace, and there's not a loss in productivity.

But just as importantly, we found in our survey that only about one-third of employees were replaced. Other estimates have ranged up to 40 or 50 percent. But since there's a substantial wage saving for those who are not replaced, and even assuming a higher wage for those who are replaced, you come out with a net cost of actually less than zero.

So we think that it's reasonable to dismiss that as a cost to employers. That doesn't mean that there are not disruptions and problems that employers face, but we really don't think it's a cost related problem.

To sum up, we have an estimate of less than $500 million, and we believe that there are a number of things that would indicate that the actual cost to employers will be less than that.

For example, some firms, principally the larger ones, and most government agencies, already provide parental leave policies which are as liberal—or more liberal—than the provisions of this legislation. Several states have either parental leave policies on their statutes, or they have disability policies which would affect the sickness of an employee.

Finally, although formal policies generally do not exist in most firms, most firms are already making concessions to employees who have to be absent for the care of a sick child, or who are absent for their own illnesses.

To put it all in perspective, we believe that the legislation, given the estimate of the number of people whom we think would be affected, and the length of usage, comes out to something in the neighborhood of one in 166 employees being absent at any given time.

We don't think that that would generally cause a major disruption for employers, and we believe that the data that we've looked at in our survey would indicate that employers, generally, don't see it as a major disruption either.

That concludes my prepared remarks. I have a longer statement, as you know, which I'd like to ask you to read into the record.

Senator DODD. That will be included as part of the record.

[The prepared statement of Mr. Gainer follows:]

United States General Accounting Office

GAO Testimony

RESTRICTED

For Release
on Delivery
Expected at
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GAO's Estimate of the Costs of the "Parental and Medical Leave Act of 1987" (S. 249)

Statement of
William J. Gainer, Associate Director
Human Resources Division

Before the
Subcommittee on Children, Families, Drugs, and Alcoholism
Committee on Labor and Human Resources
United States Senate

RESTRICTED

GAO/T-HRD-88-5

SUMMARY OF GAO TESTIMONY BY WILLIAM J. GAINER ON GAO'S COST ESTIMATE OF S.249, THE "PARENTAL AND MEDICAL LEAVE ACT OF 1987"

S.249 would provide job protection to employees of firms with 15 or more employees while permitting them 18 weeks of unpaid leave to care for a new or seriously ill child and 26 weeks of unpaid leave due to their own illness. The legislation requires that employers continue health benefits for workers while on unpaid leave on the same basis as if the employee were still working.

GAO estimates that the cost of this legislation to employers will be, at most, $500 million annually, reflecting the cost of continuing health insurance coverage for employees on unpaid leave.

Based on available studies, and a GAO survey of 80 firms in two metropolitan labor markets -- Detroit, Michigan and Charleston, South Carolina -- GAO believes that there will be little, if any, measurable net costs to employers resulting from a firm's method of adjusting to the temporary absence of a worker taking unpaid leave under this legislation. GAO found that about 1 in 3 workers were replaced, the cost of replacement workers was similar to or less than the cost of the workers replaced, and employers did not believe that a significant loss of output occurred.

Furthermore, to the extent that workers are already provided parental and extended disability benefits by some firms or have either disability or parental leave benefits under existing state law, the costs to employers of this legislation is less than GAO's estimate.

Leave to Care for New Children -- GAO estimates that the cost to employers associated with this provision will be less than $340 million annually for the continuation of health benefits. GAO estimates that 1.55 million women are likely to use such leave for 12 weeks or less.

Leave to Care for Seriously Ill Children -- GAO estimates that the annual cost to employers for continued health coverage under this provision is about $22 million. Using national health statistics, defining serious illness as 31 or more days of bed rest, and assuming that one parent takes unpaid leave to care for each child, about 109,000 workers would likely take an average of 9.6 weeks of leave.

Temporary Medical Leave -- GAO estimates that the health insurance cost to employers of this provision is no more than $138 million annually. Again using national health data, about 1.1 million workers would likely take an average 9.8 weeks of unpaid leave under this provision.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to provide GAO's estimate of the costs of S. 249, the "Parental and Medical Leave Act of 1987". While the process of estimating the costs associated with this legislation is difficult and subject to uncertainty, we have made every effort to obtain data which provide a concrete basis upon which to make the necessary assumptions which underlie our estimate. In addition to using available studies and data, we visited 80 firms in two major labor markets -- Detroit, Michigan and Charleston, South Carolina -- to determine the extent of usage of parental leave and how employers cope with extended absences.

- o In brief, we believe that the costs to employers associated with this bill are substantially less than prior estimates, in particular the $23.8 billion estimate provided by the Chamber of Commerce in March 1987.

- o We estimate that the primary cost to employers associated with this bill will be at most $500 million annually. This cost is associated with the requirement that employers continue the health insurance coverage for employees on unpaid leave.

- o We conclude that there will be little, if any, measurable net cost to employers associated with a firm's method of adjusting to workers taking leave under this legislation.

- o Available sick, annual and disability leave will be used by employees before unpaid leave, thus reducing the net cost of continuing health coverage under this legislation.

- o Expected leave usage for each provision will average less than the maximum allowable under the legislation because employees generally avoid unpaid leave.

Before elaborating on our estimate, I would like to briefly summarize the key provisions of the bill.

KEY PROVISIONS

S. 249 would require federal, state, and local governments and any company with 15 or more employees to grant a worker:

- -- up to 18 weeks of unpaid leave over a 24-month period upon the birth, adoption, or serious health condition of a child (this benefit would be available to men as well as to women)

- -- up to 26 weeks of unpaid leave over a 12-month period, for a serious health condition.

The employer would be required to continue health benefits for a worker on unpaid leave on the same basis as if the employee were working. Other benefits, such as life insurance and retirement, need not be continued. Upon returning to work, an employee would resume the same (or an equivalent) job. This legislation can be viewed principally as a job protection measure.

This legislation would apply to the 71 percent of employees working in firms with 15 or more employees who are full-time or permanent part-time employees. The 82 percent of U. S. firms that have fewer than 15 workers would be excluded.

Before elaborating on our estimate, we believe it is important to briefly explain our computation of employer health costs. The average employer portion of health insurance coverage is about $25.00 a week for each worker. This estimate averages the differences in cost and rate of coverage between large and small employers, and for family versus individual plans.

LEAVE TO CARE FOR NEW CHILDREN

We estimate that the cost for health care continuance for workers on unpaid leave to care for new children will be no more than $340 million annually. This is an upper estimate and it is our belief that the actual cost will be less. Certain key facts regarding our estimate are shown in the chart.

Likely Beneficiaries	o Very few men o 1.6 million women
Expected Leave Usage	o 64 percent average 12 weeks leave before returning to work o 36 percent take 18 weeks and do not return to work
Existing Leave Policies	o 29 percent of women have 6 weeks disability leave
Expected Cost	o Less than $340 million

We believe that leave to care for new children is used predominantly by women. Studies in the United States and in other countries that allow such leave for men as well as women, in addition to our own survey of companies, support this position. While it may be expected that some change in the behavior of men may result from this legislation, it is unlikely that enough men will take leave to materially affect the cost. Thus, we consider women to be the relevant population upon which to base our estimate. According to the Current Population Survey (CPS), about 2.4 million women workers in 1985 gave birth (or adopted children). Given the firm size exclusion, about 1.55 million women would have been covered by the provisions of S. 249. Further, we estimate that about 36 percent of the women covered would not return to work.

For our cost estimate, we assumed that the 36 percent of women who did not return to work following their child's birth would take the full 18 weeks of leave allowable under the bill before resigning their position. We estimate that the remaining 64 percent who returned to work would take 12 weeks of leave. Several studies have found that the average duration of leave taken by women following the birth of a child is less than that allowable under this bill. They indicate that few women take any unpaid leave, opting instead to use available paid leave. Our survey of firms indicated that over 85 percent of women taking leave returned to work within 12 weeks. In fact, over 80 percent returned to work within 8 weeks.

We allowed 6 weeks of disability leave for the 29 percent of women in firms providing such leave. In addition, some women have paid sick and annual leave available to use following childbirth.

To the extent that firms already offer unpaid leave similar to this legislation (which we were unable to satisfactorily estimate although we know some do), and to the extent that some states have comparable leave laws, the actual cost of this legislation to employers of providing continued health insurance coverage will be less than our estimate.

LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN

We estimate the cost to employers of continuing health coverage for workers on unpaid leave under this provision is about $22 million annually, as shown in the chart.

LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN

Likely Beneficiaries	o Workers with children having 31 or more days bed rest o 109,000 workers
Expected Leave Usage	o 9.6 weeks average length of illness o One parent takes off the entire period
Existing Leave Policies	o Paid annual leave
Expected Cost	o Less than $22 million

We assumed that one parent from 100 percent of the households in the eligible population would take leave for the full duration of their child's illness. This was necessary because we were unable to identify any information on the usage of leave to care for seriously ill children due to its low incidence and because firms do not keep records on such absences. Further, we assumed that these workers would have, at most, 1.8 weeks of compensated annual leave available prior to taking unpaid leave.

Using information from the National Health Interview Study conducted by the National Center for Health Statistics, we estimate that the maximum number of workers likely eligible under this provision is about 109,000. This is the number of workers with children under the age of 18 having 31 or more days of bed rest in one year, where either two parents were present and working or a single working parent was present. We assumed that each illness would result in one worker being absent for the full period of bed rest, an average of 9.6 weeks.

The estimated cost of this provision is very sensitive to the definition used for the serious illness of a child. To illustrate this sensitivity, we computed an alternate estimate using 21 or more days of bed rest. This resulted in an estimated 824,000 workers eligible, with an average duration of illness of about 6 weeks. The cost of continued health coverage to employers of this provision using the alternate definition would be about $88 million, annually.

TEMPORARY MEDICAL LEAVE

We estimate that the cost of this provision will be about $138 million, annually.

Likely Beneficiaries	o Workers with 31 or more days bed rest o 1.1 million workers
Expected Leave Usage	o 9.8 weeks average length of illness
Existing Leave Policies	o 29 percent have disability coverage
Expected Cost	o Less than $138 million

Again using the National Health Interview Survey, and defining an employee's serious illness as 31 or more days of bed rest, we estimated that about 1.1 million workers would be eligible under this provision. The duration of illness averaged about 9.8 weeks. Because 29 percent of employees are covered by their employers' short term disability plans which generally provide for 26 weeks of partially compensated leave, the cost estimate for this provision covers the 71 percent of workers having only some sick and annual leave available.

EMPLOYEE REPLACEMENT COSTS AND PRODUCTIVITY LOSSES

Because such a major portion of the estimate of this legislation's cost which was prepared by the Chamber of Commerce was attributable to replacement of workers on leave and subsequent productivity losses, we believe it is necessary to provide some detail on our reasoning on this issue.

Our analysis of S. 249 leads to the conclusion that there will be little if any measurable net cost to companies resulting from a firm's method of adjusting to the absence of a worker on temporary leave. In the estimate prepared by the Chamber of Commerce, the bulk of the cost was the result of assumptions made about the replacement of workers and productivity losses. The Chamber's methodology assumed that 100 percent of workers on leave were replaced, a premium wage was paid (18 percent higher than the worker on leave), and the replacements were somewhat less productive than the worker replaced.

We believe that these assumptions lead to a greatly overstated cost for this legislation. To get a sense for how employers adjust to employees taking temporary leave, we conducted a survey of about 80 firms in two metropolitan labor markets -- Detroit, Michigan and Charleston, South Carolina. Where replacements were hired, we found that:

o the cost of replacement workers was generally similar to or less than the cost of the worker replaced, and

o in general, employers did not believe that the use of a replacement resulted in a significant loss of output.

We also found, however, that in most cases no replacement worker was hired. Instead, employers tended to reallocate the work of those on leave to other employees. While some work was postponed or delayed, and undoubtedly, some difficulties arose, employers said that in general, they felt they were able to adjust to the situation.

Overall about 30 percent of workers were replaced. Clerical workers were most frequently replaced, while management and professional staff were seldom replaced. Many replacements were hired directly, about a half were hired through temporary agencies. This was similar for both large and small firms.

While firms indicated that some disruption occurred as the result of the temporary absence of workers, more than half stated that their handling of the absence resulted in no delays, and more than three quarters reported that essentially all work was performed. The impression we got from our discussions with these employers was that any additional costs associated with disrupted routines or postponed work was likely offset by the savings associated with not paying the salary of the absent workers.

Thus, we found little evidence on which to base an estimate of increased costs to firms.

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To sum up, we estimate the overall cost of the bill as presently drafted should be less than $500 million annually. The actual cost of this legislation is likely to be less when all existing coverage is factored out of the estimate. Specifically:

-- some firms (principally the larger ones) already have parental leave policies similar to the provisions of this legislation,

-- several states have either disability and/or parental leave statutes under current law, and

-- although formal policies generally do not exist, many employers already make accommodations to employees who are ill or have children who are ill for extended periods of time.

Finally, we estimate that the rate of usage under the provisions of this legislation will be equivalent to less than 1 in 166 workers being absent at any time, thus, we would not expect this legislation to cause major disruptions to most employers.

Our information on usage is based upon past experience and we assume no substantial behavior change on the part of employees in making our estimates. Although it is true that where attractive paid parental leave is available, an increase in usage results, this legislation provides only modest financial benefits (health insurance continuance) to employees while they experience a total loss of earnings when taking advantage of any of the provisions of this law.

One final point, there undoubtedly will be costs associated with the federal administration and enforcement of this legislation. However, it is virtually impossible for us to predict the extent to which violations will be alleged that would require investigation and possible adjudication.

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Mr. Chairman, this concludes my prepared statement. I and my colleagues will be pleased to answer any questions you and the other members of the Subcommittee may have.

Senator **Dodd**. I'm told Senator DeConcini is here, and as soon as he comes out I know he would like to make some remarks.

Dennis, we've just completed hearing from the GAO, and I thought before I started some questions you may have some comments you wanted to make.

Senator **DeConcini**. Well, Mr. Chairman, if I could indulge for just a moment.

Senator **Dodd**. Absolutely.

STATEMENT OF SENATOR DeCONCINI

Senator **DeConcini**. I don't want to interfere with the GAO study; I'm a little bit familiar with it.

But I want to thank you, Mr. Chairman, for holding this, what I think is the final round of hearings——

Senator **Dodd**. I hope so.

Senator **DeConcini** [continuing]. On a bill that I know you have devoted a good portion of your career here, and thanks to you we may have a bill.

The importance of this bill to me is of such significance, Mr. Chairman, that I am pleased that you are reviewing this GAO report with the carefulness that you are, and that we may be able to see this bill move out of your Subcommittee and onto the full Committee.

The number of working mothers in this country continues to grow—that is very clear to all of us, and the problem of lack of parental leave for working parents is a problem that has been around for a long time.

And I'm not here as an expert who can give you any new statistics or information that you haven't already heard, except this: Notwithstanding the hearings that you have held, I, in my own travels, have devoted a great deal of time, along with my wife, to seek out interest parties in this.

And, as you know so well, Mr. Chairman, this problem is not minimal; it is a severe one, one that the United States has yet to face, and one that I think we need to move. And it's not so popular, I suppose, with business people concerned about the cost, but I find that business people who are committed to the American way and the family values can be talked into agreeing that it is necessary that we do something.

So I'm just going to ask, Mr. Chairman, if you'd be so kind as to put my statement into the record here at the beginning of your hearings, and I will not indulge or invade this hearing any further.

Senator **Dodd**. Absolutely. Your remarks will be inserted. I mentioned at the outset of these hearings that you are a cosponsor of this legislation, and that's meant a great deal, to the dozens of witnesses we've heard from.

I mentioned we'd heard from, when we complete today's hearing, 134 witness, which—I want to be careful about claiming records—I'm not sure Senator Kennedy would like to hear it, anyway—but it maybe the record for a Subcommittee to hear from that many different witnesses, representing the entire spectrum.

We've had severe critics of this bill at every hearing, and we've heard them out. We've had strong opponents from other organizations, strong supporters, families, children, the experts, and we think we've complied a substantial and worthwhile body of evidence.

Most significantly, we've just heard this morning from the General Accounting Office. I don't know whether you were at the hearing back in February.

Senator **DECONCINI**. For a little while.

Senator **DODD**. April hearing, excuse me. Back then the Chamber of Commerce estimated the cost of the bill at over $16 billion. This morning we've heard from the General Accounting Office. After an eight month study, the GAO says the bill would cost, at the outside, a maximum of $500 million. Frankly, one of the provisions of the bill that I'm considering holding off on is the ill parent, or the temporary leave for the sick employee that would lower the estimated cost.

If you take those two issues away, and have just adoption, birth and serious illness of a child, you're talking about approximately $300 million, from $500 million, and again, that would be an outside figure.

It's a far cry from the $16 billion, and the $2.5 billion, which was the other estimate.

Senator **DECONCINI**. Well, Mr. Chairman, also, if you'd yield for a question, that does not take into consideration the morale or the greater productivity of the employee, I don't suppose.

Senator **DODD**. Not at all. I don't think you could calculate that.

Senator **DECONCINI**. I think this could very well be generated in the fact that they know they have some security, and they have an employer who cares enough to insure that they're going to be able to return after they attend to their family responsibilities.

Senator **DODD**. We asked the General Accounting Office to do an awful lot, but trying to calculate morale, I think, would be a little much, and so we did not put that question to them on the issue. But that's a very good point, obviously.

Mr. **GAINER**. And we're grateful.

Senator **DODD**. What is that?

Mr. **GAINER**. We're grateful.

Senator **DECONCINI**. Thank you, Mr. Chairman.

Senator **DODD**. Thank you.

[The prepared statement of Senator DeConcini follows:]

PREPARED STATEMENT OF SENATOR DENNIS DECONCINI

Mr. Chairman, let me first thank you for the opportunity to testify at this hearing on the Parental and Temporary Medical Leave Act of 1987. Your leadership and extra efforts to bring attention to the plight of America's families, and especially the children, is to be highly commended.

Mr. Chairman, America's economy requires us to find ways to utilize the talent and energy of both men and women in order to foster a strong and secure nation. The number of working mothers continues to grow rapidly. Many families are without fathers to contribute to their financial well-being. At the same time, the modern American family cannot find nor afford the cost of child care. I am pleased this vital issue has been expeditiously addressed by this committee. I would also like to commend Senator Specter for his efforts in promoting this legislation.

Let me first say that I am strongly supportive of any well-considered effort to come to grips with the prolem facing our Nation's children. Dr. T. Berry Brazelton, the renowned pediatrician and Harvard Medical School Professor, has declared: "We're the least committed nation to families and children that I can think of." I strongly agree. Unless we begin to address this critical issue, our society will be required to pay extraordinary costs to cure the many problems created by such inattention. We, as a society, must immediately question whether it is in our best interests to jeopardize the mental and physical development of the children who will be our future leaders.

Mr. Chairman, the fact that these hearings have been held before a labor subcommittee recognizes that the issue is not one of social welfare. To the contrary, it is an issue which addresses the ability of American businesses to tap all available human resources.

To date, the majority of employers have not dealt with the changing needs of their workers. Currently, only about half of all working women are offered some unpaid parental leave with a job guarantee, and less than 40 percent are offered maternity leave for 6 to 8 weeks—the minimum period which is recommended by most obstetricians. Therefore, almost two-thirds, or 60 percent, of working women must depend on vacation time, paid sick leave, or no paid time off at all for such leave. This has put stress on workers, their marriages and their families. We see the effects of this stress in the workplace—employee turnover, tardiness, absenteeism and reduced productivity. In the end, everyone loses—workers, families, and the employers.

Mr. Chairman, despite global support for maternity protection for working mothers, many American businesses have continually opposed pregnancy disability and parental leave legislation, arguing that the cost of these proposals will force them to close their doors or to lay off employees, and discourage small business growth and development. This Senator and many of my colleagues in the Senate and the House of Representatives disagree. We believe that the experience of American businesses which have already established parental leave policies demonstrates that these policies are both cost effective and sound social policy. We have been attempting to convince industry that legislation which would alleviate some of the burden being placed upon America's families is good business. A healthy and happy family is the underpinning of a better society. And a healthy and happy employee is the underpinning of a successful business.

Mr. Chairamn, while I am supportive of S. 249, I remain open to consider additional options to alleviate the burdens for small businesses to whom a stable work force could mean the difference between failure and success. I am also eager to review other ideas from the business community on how to avoid unnecessary hardships on American companies in their efforts to remain competitive, both here and abroad. However, I believe the parental and temporary leave is such an important social policy that it should be implemented as expeditiously as possible.

Mr. Chairman, thank you again for this opportunity to express my concerns on this most important issue to American families. I am anxious to review the testimony given today and to work with my good friend, Senator Dodd, and other supporters and opponents to gain a bipartisan solution to this matter. Lastly, I would like to commend the fine work of the subcommittee staff, and to especially thank Marsha Renwanz for her dedication and for her assistance to this Senator on this legislation.

Senator DODD. And again, thank you for your testimony here this morning, Mr. Gainer. Let me ask you a few questions.

Back in April you indicated that you thought that the cost estimate of $2.6 billion would be high. Can you tell us how you knew that was going to happen?

I mean, there are those who will say, well, this was preordained, that you folks came in and had already decided that you were going to bring these figures way down to a bottom, and that April testimony is evidence of that.

Mr. GAINER. I think that principally, at that time, what we were looking at as a difference was the number of people who would be affected, the duration of the absences that people would take, and certain other assumption that the Chamber made about replacement costs.

And at that time we believe that those factors would make quite a difference, and I think the back of the envelope that we had but were not prepared to talk about at the time was some place around a billion dollars.

But since then, in looking at the replacement cost estimates of the Chamber, and the productivity figures, and trying to determine whether or not those would be real costs for employers, we determined that they're really not a net cost factor. They probably, as I pointed out in April, and mentioned today, it does cause some problems for employers.

We experience those problems at GAO when we have absences, but we don't believe that it costs this money. And I don't believe that, in general, except for some particular kind of business that this would hit harder than others. I don't think on average it's a real cost factor to employers.

Senator DODD. You said that these are maximum figures, when you talk about birth, adoption and serious illness. Why is that, and what other factors might lower that cost estimate?

Mr. GAINER. There are several factors. For example, in our estimates we took a minimal amount of paid leave, and factored that into the estimate. In fact, whenever an employee takes off for an extended period, the first thing they're going to do is rely on their paid leave, because it's an economic impact for an employee to walk away and give up a paycheck for two weeks or four weeks, or six weeks or eight weeks.

But we put a minimal amount of paid leave into our estimates. And I think, in the case of parental, in the case of sick children and sick employees——

Senator DODD. But why would you do that? There's nothing in this bill that says anything ought to be paid leave. I mean, I think you're right. People will probably opt for the paid leave first, because they'd prefer to be getting the money rather than be without a paycheck.

Mr. GAINER. Well, the point is, they already have that benefit available.

Senator DODD. Right.

Mr. GAINER. So if you look at the net cost, they're going to take the paid leave first before they avail themselves of the unpaid, and it's only when you get into the unpaid that there's a real incremental cost to this legislation. So I think that's a pretty big factor.

For example, in parental leave we estimated that people would take unpaid leave of between seven and 12 weeks, and I think that's a high estimate. The amount of leave they take, and the amount that they take without pay, and for which the employer has to extend the health benefit, is going to be less than that.

The same for the other provisions. We did not take the time or the effort to do the analysis it would take to exclude firms that already have policies. But in fact, there may be 40 percent of the employees in the country are already covered by short-term disability leave, which would account for six weeks, both in the case of maternal leave and in the case of a sick employee.

We didn't take into account state policies. We didn't take into account firms that already give rather generous paid leave for extended periods, or who already grant unpaid leave.

We also assumed that, for the relevant population, those who we thought would be eligible and likely to avail themselves to the leave—we assumed that 100 percent of these employees would take off.

A good example would be for a sick child. We assumed that one parent would take off the full 9.6 weeks of the illness. In fact, parents don't behave that way.

They take off a week, or a few days, at a critical period, and they make every effort to get back to work and earn a living, because, by and large, people are not capable of taking several weeks off work without pay.

So I think there are a whole variety of behavioral factors where you would expect the employee to act in their best interest, and to minimize the personal cost. And I think that's an interesting aspect of the bill here.

You're providing the ability for an employee to take off leave, when they must, when it's important to them, but you're also providing it in a way so that they have an economic incentive to get back to work as soon as possible.

Senator DODD. So that $500 million figure, if you exclude the ill parent, or the medical leave of the worker, comes down substantially. And if you're talking just about adoption, birth and illness of children, that $360 million figure is the worst case scenario?

Mr. GAINER. We believe it is, yes.

Senator DODD. So not $16 billion to $2.6 billion, but $360 million is the worst case in those three fact situations.

Mr. GAINER. Yes. I don't think there's any justification for estimates in that size range. There are always uncertainties, but your uncertainties should revolve around a best guess estimate, which is based on as much of reality as you can factor into the estimate.

Senator DODD. I know my staff has been in touch with you about these question, so the guests here this morning should know that this is not part of your testimony, but I would like to put a few questions to you, that I am receiving from my colleagues.

What would happen if we didn't have 15 workers, but rather 20 workers, as a minimum sized firm, or 25 or 30—what would happen if we said the bill would not apply to anyone who hadn't at least worked for six month or a year for an employer?

And what would happen if we reduced the available number of weeks from 18 to 14 or 12? I'm just trying to get some indication, if you move some of these numbers around what happens to these cost estimates?

I know they've raised these issues with you. I know we raised some of this data with you only a short time ago, and I apologize for that, but if you have some response to those questions I'd appreciate hearing it.

Mr. GAINER. Yes, we did do some quick calculations on all of those things, and today I can give you the change in the population affected, and the cost difference would be roughly proportional, although the cost estimates are not nearly as simple as they may look when we put them up on these charts, so I can't give you those numbers today.

But for example, if you were to change your firm's size to greater than 20 for this legislation to apply to, you would lower the percentage of the workforce covered from 71 percent to 67 percent. And the cost reduction would be roughly proportional to that. You'd be knocking off perhaps five percent, or six percent, of the cost by that kind of a reduction.

If you raised the threshold for firm size to firms above 30, you would bring it down to about 63 percent. So you would have about an eight percent reduction in the number of employees who were covered.

I think the question——

Senator Dᴏᴅᴅ. You say you don't want to be held to a specific number, but could a commensurate reduction in the employee force covered also lower either the $500 million or the $360 million cost estimate, depending on which number we're talking about?

Mr. Gᴀɪɴᴇʀ. Yes, that's correct. It would vary a little bit from that, but after you do all the calculations it's going to come out pretty close to a proportional reduction.

If you look at the tenure question, and I think that's probably a particularly important to employers, if you were to keep the firm size at 15 or above, and change the tenure to six months, you would reduce the percentage of the work force covered from 71 to 62 percent, about a nine percent reduction in coverage, and that would get you something in the neighborhood of a 15 percent reduction in the cost of the legislation.

If you were to change it to one year, the number of employees—because there are a lot of employees who come in and out of the labor market every year—the number of people covered would drop from 71 percent to 51 percent. So you would be getting a reduction in the neighborhood of a third in the cost.

Senator Dᴏᴅᴅ. Reduce the cost by a third?

Mr. Gᴀɪɴᴇʀ. Yes, if you were to drop it from no tenure requirement to a one year tenure requirement. So that's a substantial reduction, and doesn't not seem to me to be an unreasonable change.

Senator Dᴏᴅᴅ. No, we heard. Very good. And again, I would just say to my colleague here, we had excellent testimony from a lot of businesses who made some very constructive suggestions. Didn't like the bill, but when asked what sort of things we could do to improve it, this was one of the suggestions, and I think it makes some sense, as well.

Mr. Gᴀɪɴᴇʀ. When I appeared here in April, I said that we had difficulty in getting the testimony together because my secretary was on parental leave.

Senator Dᴏᴅᴅ. It didn't help me when you said that.

Mr. Gᴀɪɴᴇʀ. I didn't feel at all bad about her being gone, though, because she's a wonderful employee, and she's been with us a long time. I might have felt differently if she had only been there three months and we weren't sure whether she was going to work out anyway, so I would see that as a positive change in the legislation.

In terms of the number of weeks, if you were to change it from, say, 18 to 16 or 14, it would undoubtedly reduce the cost a bit. It would reduce the cost for those employees who do take that period of leave, but the typical employee does not take that long, anyway.

So, in terms of our cost methodology, it wouldn't make any substantial difference, and it would only make a difference to individual employees. In the overall, I don't think you'd see a big cost difference, because most employees are taking six or eight or 12, and it's only a few who go to 18 or 26 or a longer period.

Senator **Dodd**. So the largest cost saving would be the triggering time when the benefit would be available, either the six months or a year or whatever?

Mr. **Gainer**. That's right.

Senator **Dodd**. With some modest savings as you move up on the number of employees.

Mr. **Gainer**. I think the other area which could cost significantly more, or less, depending on the way it ends up being interpreted, is the sick child. We used 31 days as a serious illness.

If, for example, you were to go to a situation where people were using that for illnesses of 14 or 15 or 20 days, in that range, and that was the typical outcome, your costs for the seriously ill child would jump substantially.

Mr. **Bachus**. It would be approximately $88 million if you increased that.

Mr. **Gainer**. To 21 days.

Senator **Dodd**. Let's get that cleared up. You used what definition of what is serious illness?

Did use a child being ill for 31 days?

Mr. **Gainer**. Or more.

Senator **Dodd**. Or more. Yes.

Mr. **Gainer**. We said that's a serious illness. If it were interpreted as 21 days, the cost would go up from $22 million to $88 million, and so it would essentially be quadrupled.

And, as we said when we were here before, we think that's an area that needs some better definition, not only from a cost point of view, but from an employer's ability to implement the legislation. I think that would be a pretty troublesome provision unless there's some guidance in the law.

Senator **Dodd**. Yes. It is an estimated cost here, by the Chamber, that for the Federal government to enforce the legislation, it would cost in excess of $40 million.

Where does that figure come from, and how accurate is it?

Mr. **Gainer**. We didn't include that in our analysis, other than to mention that there would be cost, because we weren't able to do any independent work. The $40 million figure, though, I think, is—that's a Department of Labor figure?

Mr. **Bachus**. It's a Department of Labor estimate provided to the Chamber, I believe, some time ago, and it's what they would consider their most likely or most realistic estimate, based on an estimated 30,000 complaints for alleged violations a year, and a staffing level that they think is sufficient to investigate those complaints.

Something in the neighborhood of 750 full-time employees to investigate what they think would be the workload required, which we have some reason to think we'd want to take a closer look at.

Mr. **Gainer**. I'd be a little stronger than that. The Department of Labor has about 900 people enforcing OSHA regulations, and yet their estimate shows 750 people to enforce the provisions of this bill. I just think it's kind of ludicrous to believe that the Labor Department would divert that kind of resources——

Senator **Dodd**. To parental leave?

Mr. **Gainer**. To the parental leave bill, and——

Senator **Dodd**. They'd probably like to.

Mr. BACHUS. I don't know about that, either. He can talk that way, I can't.

Mr. GAINER. I understand.

Senator DODD. So are you suggesting that the figure of $40 million is also ludicrous?

Mr. GAINER. We can take a little closer look at it for you, but it just, on the face of it, seems like a very unreasonable estimate to me.

Senator DODD. Now, the cost estimates of continuing health insurance you mentioned was the most expensive part of this, but there are obviously a lot firms that don't include, or have, health insurance programs.

Mr. GAINER. That's correct.

Senator DODD. That's left up to the employees themselves to maintain. I presume you took that into consideration?

Mr. GAINER. Yes.

Senator DODD. There is a proposal to mandate health insurance programs for all employees. What would happen to the costs on this if we suggest that all firms would have to pay that health insurance?

Mr. GAINER. Well, our figures included a factor for firms that have——

Senator DODD. I'm having a hard time hearing you, I apologize.

Mr. GAINER. I'm sorry. We included that factor in our estimate. What did we assume is the number of firms that didn't have coverage?

Mr. BACHUS. There are about a third of employees, I believe, 30 to 40 percent who don't currently have health care coverage. Our average estimate factored that out. If that was included in the estimate, the average cost to continue health care coverage would increase by somewhere around a third, perhaps. It's a hard number to nail down because there are people who are members of two-earner households who perhaps would be covered by one company and not another, in a family plan for two spouses who are both working.

So the number would be probably roughly a third.

Mr. GAINER. It would affect all three provisions, and so you'd be talking about $150 million to $180 million in terms of an increase if that legislation were passed.

Senator DODD. Yes. Mandated insurance. Now, as you mentioned earlier, some States have adopted parental leave policies. I think some six States now. Some 29 States are reviewing or working on legislation.

Did you have a chance to look at what the effect on small business was in those States that have adopted parental leave policies with numbers in the range that we are talking about? Numbers of employees.

Mr. GAINER. I think it would be rather difficult to isolate that factor, and see what that particular factor did to the environment, say, for small business in a given State.

There have been efforts in the past to analyze what, say, the overall policies of a State do to the business environment. I don't think you cold realistically isolate this factor.

I mentioned earlier that we think that not only the upper bound on the cost but an upper bound on the usage would be something like one in 166 employees being absent at any given time. And if our estimates of usage were right on the money, you'd be talking about a usage cost to the employer of about $200 to $300 per employee.

So if a firm of 166 people had the average experience, their cost per year would be about $300.

If you look at that in terms of what a firm that size would be doing in terms of payroll and income, you might have a firm that's generating $6 to $7 to $8 to $10 million in terms of overall business, and they would be paying their employees someplace in the neighborhood of $4 million to $5 million per year, and we're talking about an average cost of an additional $200 to $300.

I don't think it's necessary to look at an econometric model to figure out what the impact of that would be. Unless we are seriously in error on that—and I don't believe we are—the impact should just be trivial. That's not going to be a factor that's going to put people in and out of business.

Senator **Dodd**. The impact you said will be trivial?

Mr. **Gainer**. Trivial, I would think.

Senator **Dodd**. Well, there may be some additional questions that other members may have on the Committee, but you've pretty much covered the bases for me.

I would like to get from you, if I could, the percentages you gave me on reducing the number of weeks, and increasing the number of employees, and so forth. It would be helpful to get some cost estimates on those.

Mr. **Gainer**. We would certainly be glad to do that. That's easy to do, we just couldn't do it as quickly as we'd like.

Senator **Dodd**. No, I understand that, and I appreciate that. It just occurred to me, because we are talking about a significant and growing number of members who are interested in the legislation, but who have some concerns, and I think legitimate ones, and we're certainly interested in examining what the effects of the possible changes would be, and obviously what the cost impact of making those changes is. So that would be very helpful to us.

Mr. **Gainer**. The one conclusion I would make in regard to those kind of changes is that, given the change in population served you get by changing the firm size is not a dramatic change unless you really change the firm size substantially.

Given the size change you get there, I would think that that would be a change that you'd have to consider carefully, because you have to balance it against the fact that it's the employees in the smaller firms that are less likely to have strong benefit packages which would include parental leave.

And it's those employees who are more likely to receive a benefit from the legislation. The very large firms, the "yuppie" firms, the people who employ those are likely to already be offering this kind of benefit to their employees. And it is the employee in a smaller firm who is going to be the most likely gainer from this kind of legislation.

Senator **Dodd**. That's a good point. I found where you have very small firms and everyone knows everyone, there's a tendency to be understanding when things happen—where you know the individual who faces the problem.

But I agree; your point is well taken. You get that employer exemption number up too high and you cut out the workers who need it most. Because as you point out so accurately, this bill will have its most immediate effect on women and the majority of women are employed by smaller businesses. That will be changing, I think, in time, but at least as of now that's where job opportunities exist most often for women—with smaller employers and smaller businesses.

Mr. **Gainer**. The one thing I didn't mention in my statement was the question of small versus large firm, and whether or not there are differences in the kinds of problems that they encounter.

Common sense seems to tell everybody that it would be more difficult for a small firm to cope with the absence of a single employee, or a couple of employees. And a lot of the things that have been written on this bill are predicting dire consequences for the smaller firm.

I couldn't say that the 80 firms we looked at are really typical of the country. We didn't pick them in any particular way that gives you a bias, but we only looked at two major labor markets.

But in those firms, about three-quarters of the employers said that when they had an absence for an extended period of time they were able to cope with it, and there was no material difference between the large firms and the small firms.

In fact, we actually found fewer officials from the small firms saying they had problems as a result of extended absences than we did in the large firms.

So the data that we have doesn't support the big differential in the problem between large and small firms. I'd have to caution, though, and say that it's not an exhaustive study of the topic. But it is what we think is reasonably hard data, and it's not a prediction of what would happen in the future, but it's a reflection of what employers feel their problems are now, and how they cope with it, and whether or not it's a significant problem for them.

By in large, large and small firms both said that they could cope with these absences, if they spread the work around, they were able to handle the problem.

Senator **Dodd**. Very good. Well, I want to thank both of your assistants, as well, who have worked on this. I know you've put in a lot of long hours, and it's been tremendously helpful. We'll make sure that our colleagues here on the Committee, and others, will have access to it. And, as I said, if they have some additional questions, I presume you'd be willing to respond to them as they come up.

So thank you.

Mr. **Gainer**. Thank you very much, Senator.

Senator **Dodd**. We have a vote on, and what I'd like to do in preparation for that vote, is—our next panel of witnesses is parents and families. There's Benny Snodgrass from Huntsville, Alabama; Christine Watson, Marie Hughes Brown, Christine Sinnock, Dr. Jerome Paulson.

I'm going to ask that they come to the witness table while I'm going over to vote. We'll take a ten minute recess, and reconvene this hearing upon my return.

[Recess.]

Senator **Dodd**. The Subcommittee will come to order.

I hope these interruptions won't be terribly frequent, but it's one of the dangers of holding a hearing when there's an ongoing session of the Senate. So I hope we'll get through your testimony this morning.

I've introduced our panel already. Let me tell you a little bit about them.

Benny Snodgrass is a single father of six children. After teaching for 17 years in the Huntsville school district, he lost his job last spring when he had to care for his youngest child who had developed a malignant brain tumor.

Christine Watson is an adopted mother of three special needs children. She is also a supervisory nurse by profession.

Mary Hughes Brown is from Washington, DC. She is the mother of a seven-month old daughter, Katie. Marie also works as a technical copy editor. Both she and her husband both have to work to support their family.

Christine Sinnock is from St. Jude Children's Hospital, Memphis, Tennessee. She has worked as a licensed social worker at St. Jude's for the past four and one-half years, and she will tell us about her experiences in working with parents of seriously ill children.

And Dr. Jerome Paulson is from the American Academy of Pediatrics here in Washington, a pediatrician. He also has extensive experience in working with seriously ill children and their families.

I am delighted that all of you are here. I apologize for the delay this morning, and we look as though we have a seventh witness here with us, with Ms. Brown this morning.

Ms. **Brown**. You may speak up.

Senator **Dodd**. You may speak up. I think I heard her already once in the back.

We'll just begin in the order in which I've introduced you. Let me ask you all if you would be kind enough to paraphrase your remarks. All and any prepared testimony you have I promise will be included as part of the record. But if you're most comfortable by reading your testimony, please do that. But we would like to get to questions if we could as well.

Mr. Snodgrass, we'll begin with you.

STATEMENTS OF BENNY SNODGRASS, HUNTSVILLE, AL; CHRISTINE WATSON, WOODBRIDGE, VA; MARIE HUGHES BROWN, WASHINGTON, DC; CHRISTINE SINNOCK, ST. JUDE CHILDREN'S HOSPITAL, MEMPHIS, TN; AND DR. JEROME PAULSON, AMERICAN ACADEMY OF PEDIATRICS, WASHINGTON, DC

Mr. **Snodgrass**. Senator Dodd, I'm glad to have an opportunity to come today and speak before this Committee. As you said, I'm a former physical education teacher for the Huntsville City Schools for 16 years.

For 16 years, I've worked beyond the call of duty, working hours after school and working in the cold and working in the rain, trying to provide for my children. I'm a single parent of six children, three girls and three boys, and I find myself most of the time taking on that responsibility as being mother and being father.

A short time ago, I had a child, my youngest child, Karah, came down with a malignant tumor. And I would receive phone calls from the school that she attended to inform me that she was ill, but somehow or another, I didn't get the call until almost the end of the day, and she became sick that morning.

Well, the next day, I carried Karah to the doctor, and the doctor examined her, her family doctor examined her, and he found that her eyes wouldn't dilate and that she was having problems walking. And I had to hold her by the hand to keep her from falling. So he suggested that I take her to the hospital and have a cat scan run on her. And at the time I didn't have insurance on her. And they refused to accept her at the hospital to run the cat scan from her family physician.

So he suggested that I take her back home and he would try to do some contacts, and he managed to contact a neurologist, and the neurologist felt that something was wrong. He noticed that her eyes wasn't dilating and she had problems walking. And he sent me to the hospital. And she had a cat scan done, and they found that she had a malignant tumor.

Well then, after that, Karah, she had surgery, and during the surgery, the surgery was a success and they were able to remove all of the tumors—she had more than one—all of the tumors but one. And the doctor suggested that I needed to take her through radiation treatments and chemotherapy to try to get rid of that tumor.

Well, shortly after that, I was informed by a social worker at the hospital who introduced me to St. Jude's Hospital, so I was able to get her in at St. Jude's Hospital for treatments. And she has gone through chemotherapy treatments and now into the last period of her radiation treatments.

During the time that Karah was sick at the hospital in Huntsville, I had problems. I had problems with the utility bills and not having any money to pay them, and not being allowed time to pay the bills. So my utilities was cut off. And I had five other children there at the house without utilities. So we worked and managed to contact some organizations like United Way and Catholic Social Services, and they donated money and funds to get the utilities on.

During this time, it has been a great hardship on myself trying to maintain my other five children at home and being with Karah during her sickness. The other children seem to be making it fine because they understand the situation, that I really need to be there with her.

I find that it's hard for me to understand why a man could put in so many years in hard work on jobs and receive outstanding letters from different States commending me on the job, inventing games and new ways of teaching elementary physical education to make it fun. I find it hard for me to understand putting in so many long hours and them not understanding that I need to have time to be there with my child who is sick because there's nobody else there to do it but me.

It's been really hard for us traveling to and from the hospital at St. Jude. We put in about six hours of traveling time going to and from the hospital, and having to leave the other five children there at my home in Huntsville.

I can't begin to tell you the stress that I've been under, and feeling often there are times that I feel that my work with the city schools has been in vain.

Senator DODD. How many years do you have in the school system?

Mr. SNODGRASS. Beg your pardon?

Senator DODD. How many years had you been with the school system?

Mr. SNODGRASS. Sixteen.

Senator DODD. Sixteen.

Mr. SNODGRASS. And going to them and explaining my situation and asking for time off to be with my child that's sick, and have been told that they would not be able to hold my job for a long period of time because my child is sick, and has a disease that it's unknown how long the treatments will be.

And I could probably go on and go on and discuss a lot of things that has happened to me during my child's sickness. But the main thing that bothers me today is the long hours that I put in at work and not being able to get any time off.

So, as I close my statement today on a little bit about the history of my child and my children, I'd like to close with the statement of saying that being a loving and devoted parent like I've been and will be, if I had the opportunity, if one of my children or any of the other five would become sick, I would probably do it again. I would have to be with them. And the statement that I would like to close out with is by saying that I remember John F. Kennedy, as he made a statement, and he said that we should ask not what our country should do for us, but ask what you can do for your country.

But I would like to say that I feel that he was not only saying ask what you can do for your country, but he was saying to you that if you have children that become ill and need the attention of not just the mother that would usually be there, but there are fathers like me that love their children and, regardless of what happened to the mother or what, we're going to be there by our children regardless of what.

But I'd like to close out my statement by saying that I'm not asking what the country can do for me, but I'm going to ask what I can do for my children.

Senator DODD. Thank you very much.

Christine Watson.

Ms. WATSON. Maternity is defined in Webster's as a state of being a mother. The character of qualities of a mother. It does not mention a natural birth nor does it mention an infant.

Although parenting a special needs child is challenging and overwhelming at times, rewards are numerous. To help and achieve in this smallest deed is heartwarming. An adopted special needs child, besides providing them with your love, acceptance and the warmth of your family, you must provide them with good medical care. Although you try to get the legwork done before the child joins your family, you can be unprepared due to the unexpected.

In March of 1985, Joey, age 10, was placed with us. He has end stage renal disease, since the age of six. He was abandoned by his family when he became ill. He spent a year at Children's Hospital. During that year of hospitalization, he received two cadaver kidney transplants. The first kidney rejected after six weeks. Approximately six months later, he received a second transplant.

Following this transplant, he was placed with a prospective adoptive family. After about a year, Joey was literally thrown out of this family at the age of eight. He stayed with his aunt and uncle for the less than six months. He lost his second transplant and was placed in an orphanage.

Due to the rejection of this transplanted kidney, he needed dialysis two times a week for six hours. Joey lived in the orphanage for one and a half years before he became our son.

We needed to find physicians experienced in pediatric end stage renal disease. Besides having to deal with a chronic illness, Joey experienced a great deal of abandonment in his young life. And due to this lack of trust, his bonding ability has been slow. Finding a therapist specialized in these problems was a necessity.

Because of the proximity of my place of employment and Joey's new dialysis unit, I was able to provide the time and transportation necessary for Joey's four and a half hour treatments three times a week without taking leave.

In December of 1985, Cassie, age five and a half months, was placed with us. She was a premature infant, weighing 2.6 pounds at birth. She was born with congenital syphilis. She could possibly be mentally retarded and have teeth and bone problems.

She was on a respirator for two weeks because her lungs were undeveloped. Joey's nephrologist could not care for Cassie so we needed to find a different pediatrician, one who accepted D.C. Medicaid because she was a ward of D.C.

A few days after her placement, she was taken to her new pediatrician for a complete physical. He found congestion in her lungs and started her on new medication. During the month of vacation I took to be with my new daughter, I took her to the doctors at least weekly, sometimes twice a week. I took four weeks of vacation time to spend with my daughter, to learn to care for her, to start her on a new routine, love her, to bond with her, but it turned out I had to watch her closely for respiratory problem. It would have been nice if I could have had more time off with her, to be more comfortable with her medical condition.

The day she was to be baptized, she went into acute respiratory distress which resulted in hospitalization. This is the first of our week-long hospitalizations for Cassie. She has been on medication and breathing treatment since we got her 22 months ago.

In June of 1987, Claude, age six, joined our family. He was born with fetal alcohol syndrome, is hyperactive, and is moderately mentally retarded. Because my husband is now at home, I took one week of vacation time to help Claude with his initial adjustment to our family. During that week, Claude had to be taken to the pediatrician, not only for a complete physical but so they were familiar with each other in case he became ill. Also during this week, Claude had to be registered for special education.

According to the National Exchange in Philadelphia, they have over 3,000 special needs children that need homes. This is only one of several exchanges in this country that try to find homes for special needs children. Special needs children include not only those with physical, mental or emotional problems, but includes the older children, sibling groups, and minorities.

The cost of adopting a healthy baby can be outrageous, $5,000 to $10,000. Not to allow an adoptive mother maternity leave is unjust, especially after paying any amount of money for a child.

Bonding is a necessity for a child to thrive. The bonding process between an adoptive parent and a special needs child is a complex and lengthy process. Some of these children are sick, some of them abandoned. Parents need time to learn to deal and treat these illnesses. Abandoned children need the bonding time to trust and feel wanted again.

Since you do not have nine months to prepare for their arrival, one may not have enough vacation time to take off. This is an appeal to you to consider these problems when deciding on the passage of this bill.

Thank you.

Senator Dᴏᴅᴅ. Thank you very much.

Marie Brown.

Ms. Bʀᴏᴡɴ. Please forgive me for reading from a prepared statement.

Senator Dᴏᴅᴅ. That's all right.

Ms. Bʀᴏᴡɴ. But I was a little afraid I would get a little emotional here.

You might say that I am one of the lucky ones. My company, which is called the Maxim Corporation, will allow up to six months of unpaid leave, personal leave, although there is no paid maternity leave per se. One can, however, use vacation hours or sick time for maternity leave. For that reason, I didn't take any sick time or vacation in the four-month period immediately prior to my delivery. I saved five weeks worth for my baby.

I had to take time off last October. I had to take some of my accumulated time because I had a brother-in-law who had a prolonged hospitalization and subsequent death at Johns Hopkins in Baltimore.

On February 1, 1987, my company initiated an optional short-term disability benefit. I was able to take advantage of two weeks worth of that benefit since my doctor had advised a 10-week maternity leave because I had a postpartum infection.

My daughter, Kathleen Erin, whom you've all met, was born at midnight on March 9th of this year. I was on leave for a total of 11 weeks. I returned to work the day after Mother's Day. For two weeks, my mother cared for my baby in my home, and then she had to return to her regular employment in New Jersey. I wanted to have a one-on-one as long as possible with my baby so my mother was able to fill that need for at least a couple of weeks.

My infant daughter went under the care of a comparative stranger at the age of 13 weeks. I was very lucky. The comparative stranger was highly recommended by a very close friend. Furthermore, she loves babies as much as anyone possibly could. She lives right next door. She's a mature woman and has a lot of experience.

The thought of abusing a child is totally foreign to her. On the other hand, she cares for three babies, age two and under, and two preschool boys all day every day. After school, about another 10 children, eight to 10 children depending on the day, are under her supervision until their parents pick them up between 5 and 6.

On the very first day Katie went to her babysitter, she returned to me smelling strongly of cigarette smoke. There's not much you can do about that in that kind of situation.

She had her first serious ear infection at less than five months. She got the infection from a cold she picked up from one of the other kids at the babysitter's. And finally every time I visited the babysitter, the TV has been blaring.

Within a week of when I went back to work, I drafted a notice which I subsequently posted on two doctors' bulletin boards, my OB/GYN and my pediatrician, and my plan was to take another child into our home to offset some of the income I would lose if I stayed at home with my daughter. Five couples responded to this ad, and three of them finally did decide that I was the caretaker of their choice. But by then, my husband and I had gone through the real financial situation and we knew that that was simply out of the question. I couldn't afford to take that much of a cut in salary.

My husband and I make a gross of approximately $43,000. Our total monthly take-home is around $2,600. Well, average monthly expenses exceed $1,650. This does not include gas, food, health care, diapers, nor, to introduce a note of levity, entertainment. Nor does it account for the approximately $4,800 worth of debt, personal and credit card, that we're in because we had to borrow heavily when our baby was born. We're not poor. We're probably the personification of a middle-class family, especially since we live in the D.C. metropolitan area where the expenses are so high.

But we could not afford to take advantage of my company's extremely laudable six-month personal leave because we just simply couldn't afford the expense. We had to borrow extensively as it was. Nor could we afford the approximately $13,000 worth of salary cut with the consequent loss of benefits so that I could take care of one or two other babies and be at home with Katie.

My little baby shows all the signs of being both willful and intelligent. Everybody here caught the willful already. She's intensely curious and, so far, extremely happy. I want her to be as secure and confident as I had the opportunity to be. I would love for her to have the same advantages I did. I could read by the age of three because I had someone constantly reading "Little Golden" books to me, for example. I know this is impossible in the 1980s.

We live in a two-income society and, like most women, I must work outside the home. I do believe though that in almost all cases, the absolute best care a baby can have is that of a natural parent or adoptive parent who has loved and nurtured it since nine months before its birth, or since the moment it got there.

It killed me to think that Katie has teething pains, which has been known to keep her screaming for hours, and I can't hold her and sing to her. Or she's in pain from an ear infection, or that she has already witnessed 43 murders and sundry acts of violence on HBO and the cartoons by the age of seven and a half months.

In my opinion, this legislation is minimal but it is imperative. It gives parents a chance, albeit a slim one, but nonetheless a change to gently nurture a child's introduction to this world.

I never was a clock watcher before, but now I take work home several times a week in order to be with Katie by her dinner hour. And if you're on the GW Parkway and you see a little Nissan speeding by you at about 4:30 and wonder why it is that some fools are in such a hurry to get home, she's why.

Senator **Dodd**. Thank you very, very much, Marie, for being here.

Ms. **Brown**. Thank you.

Senator **Dodd**. Christine, thank you for being here as well.

Ms. **Sinnock**. St. Jude Children's Research Hospital in Memphis, Tennessee, fulfills promise and the care of its founder, Danny Thomas, by making a significant contribution to alleviating catastrophic childhood diseases.

Through proving the best most up-to-date medical care to our patients regardless of their economic status, pushing forward with clinical research and sharing our knowledge worldwide, the hospital positively impacts on the lives of children, their families, and society.

As a clinical social worker at St. Jude, my role involves mediating amongst the medical staff, the child and his family, and the home community to promote the most optimal, emotional and social adjustment possible.

My concerns include in showing the maintenance and continued normal growth of family life. Childhood cancer is nondiscriminatory. It attacks children of all racial ethnic groups, all ages, and both sexes. Its young victims are from every imaginable family situation intact with stable marriage, divorce with stepparents, single parent, middle income, welfare dependent, wealthy, and low income.

The physical, emotional and social tasks of these families are frequently impacted by the financial stress directly related from limited leave from employment. Frequently the length of the illness and the uncertainty of outcome plays a significant demand on the employed parent. Acute lymphocytic leukemia, for example, requires two and a half to three years of continuous treatment if things go well.

At St. Jude, the initial phase of treatment demands that the child remain in outpatient clinic and/or hospitalized for a six to eight-week period of time before returning to their home community. Many employed parents have one or two weeks paid vacation available. Typically, accrued sick leave cannot be utilized for the care of a sick child.

At the time of initial diagnosis and treatment, many parents have reported secure job status with their employers instructing them not to worry about their jobs. Other parents must choose employment as a priority as they struggle to maintain financial security for the cost of the illness and the urgent need for insurance benefits place additional economic stress on the family.

Despite the positive reactions of some employers during initial treatment, the majority of parents report little understanding of flexibility throughout long-term treatment needs.

Expected treatment needs can include weekly examination and treatment. No additional leave is available to remain with the child during unexpected, unplanned hospitalizations for such occurrences as fever and infections.

Approximately 50 percent of children diagnosed with cancer either never achieve remission or suffer recurrent disease. For the parents of these children, available leave has been depleted, and the understanding and charity of employers has been exhausted. Again, at a time when the physical and emotional needs of the child and family are most demanding, and the extended absence from employment most needed, employed parents must choose between providing emotional support or economic stability.

Lastly, if all known treatment fails and a child becomes terminally ill, another set of demands are placed on the parents and the family. An increasing number of parents are choosing home care over hospitalization throughout the terminal phase of illness. The physical and emotional demands, as well as the attempt to spend quality time with the child, results in limited ability to concentrate, and certainly little reserve energy to be productive within the employment situation.

In short, most parents face employment and economic security having priority over the emotional needs of the child with cancer and the family throughout the course of the illness and treatment.

I'd like to present the following case examples that illustrate the impact of childhood cancer on families' employment.

The situation of the intact two-parent family, with one parent accompanying the ill child and one parent remaining at home to work is commonly presented to me.

For the single wage-earner family, the nonworking parent obviously remains with the child, assuming primary responsibility for medical care.

For the two wage-earner family, the parent with the greater salary and benefits remains at home. This separation can impact on the marital relationship, the well-being of other children, and the absent parent's relationship with the patient.

One family whose child is currently a St. Jude Children's Research Hospital patient falls in this dilemma. The father, a laborer, earns a greater salary than the mother, a secretary. During initial treatment of their nine-year old son, the father's employer provided flexible work hours with some overtime to maintain family income, and allowed the father to accompany the child during crucial times. The mother was provided a temporary leave of absence. When their son relapsed and additional treatment was needed, the father's employer pointed out his initial assistance and would no longer extend this opportunity. The mother's employer, citing an unpredictable date of return to work, sought a permanent replacement.

Because of loss of status from employment, the mother began expressing resentment and anger toward the father who had the opportunity to continue working. Additionally, she felt the entire burden of meeting their child's physical and emotional needs. The father, in turn, felt resentment that periodically accompanying his child would result in loss of employment. He was forced to forfeit quality and possibly life limited time with his child. Little energy was left for the three-year old child who remained with his grandparents during the majority of this time.

Loss of employment is not the only threat for employed parents. For another low income working class family, an adolescent was given the adult task meeting the sick child's needs while both parents maintain their employment. The professional parent reported his absence did not cost in loss of job, but did result in delay in promotion and reduction in opportunities for commissions.

A single parent of a 15-year-old, recently diagnosed with cancer illustrates another common dilemma. Prior to diagnosis, this parent successfully remained independent of welfare by maintaining a low paying but stable job. The family resides approximately 300 miles from St. Jude. Her employer provided her one week paid vacation, as well as 10 days accrued sick leave. Before her son's initial eight weeks of treatment was completed, this parent would not pay her rent, utilities or a small car loan, and had no guarantee that the opportunity to resume employment would be there upon her return to the home community. She applied for SSI for the child during the first week of treatment. There is a 90 to 100 day delay of benefits to determine eligibility for SSI.

The child expressed a sense of personal responsibility and guilt for the family's economic situation. If the mother's job remains available, the child will have to be accompanied by an adult extended family member for the next two and a half years of weekly treatment. The mother, in turn, will lose the direct emotional support of her son's care givers.

Some parents have reported positive responses of employers, such as extended leave, advancement of benefits, secure job status at the end of the illness, and co-workers donating leave and paying insurance. These parents are not forced to prioritize economic and employment security over the emotional well-being of their child, their marriage and their family.

Unfortunately, most employed parents report the pressure of possible demotion or termination of employment during some phase of the child's illness.

As illustrated, this stress can result in not only economic instability but disruption to the family and to the care of the child with cancer.

Senator DODD. Thank you very much, Christine. Do you know Mr. Snodgrass?

Ms. SINNOCK. Yes.

Senator DODD. Do you work with him?

Ms. SINNOCK. He has another social worker, but I know him well, yes.

Senator DODD. I assumed you did.

Dr. Paulson, we thank you for being here as well to give you testimony.

Dr. PAULSON. Good morning, Senator. I am glad to be here.

I am a pediatrician and a Fellow of the American Academy of Pediatrics. I am here this morning to offer the academy's assistance in formulating definitions for terms used in S. 249, the Parental and Medical Leave Act.

In the 1980s, there have been many calls to strengthen the American family and to support American business. American business needs a strong and committed work force. Such a work force will be created in part by ensuring that businesses support families in times of personal crisis, such as the birth, adoption, or major illness of a child.

We compliment you, Senator Dodd, on your determined effort to design practical solutions to work and family issues that respect both employers and employees.

The Parental and Medical Leave Act would entitle an employee to 18 unpaid work weeks of parental leave during any 24-month period as the result of the birth of a son or daughter of the employee; as a result of the placement for adoption or foster care of a son or daughter with the employee; or in order to care for the employee's son or daughter who has a serious health condition.

I will be happy to answer questions related to birth, adoption or foster care. However, for the remainder of my remarks, I am going to focus on the issue of the child with a serious health condition.

It is our understanding that it is the intent of S. 249 to eliminate the painful and often hopeless choice that parents are forced to make between keeping their job and caring for their child during a medical crisis. Your proposal would allow parents the opportunity to take unpaid leave without the threat of losing their job or jeopardizing their seniority.

Having this option available safeguards the family's economic security while the parent fulfills the urgent responsibility to are for his or her child. Clearly, a crisis of this nature does not arrive with each and every bout of illness that a child may experience. To ensure equity for employees and employers, it is important that there be parameters outlining situations where parents might request this leave. This will be useful for employers, as they structure benefit packages and plan for operations management. It will also make it easier for employees to realistically assess their options if a crisis should arise.

Before making some suggestions on the definition of a serious health condition, let me tell you that, as a pediatrician, the parent's presence during an illness has a tremendous impact on a child's physical and emotional well-being.

For 30 years, we have known that children who are hospitalized get well faster and have fewer complications when their parents are able to be with them. Nelson's Textbook of Pediatrics, one of the preeminent references in my field, states that very young children become extremely frightened when they're left alone in a hospital, and that parental rooming in should be and must be a standard procedure. Allowing parents the option to care for and to comfort their seriously ill child is sound pediatric practice.

In this era of shorter hospital stays, parental involvement with the homebound child may be important, not only for emotional support, but also for medical support. The parent may be the only person available to stay home with the child, give the child medication as scheduled, and observe the child for satisfactory progress or the development of problems.

Now that I've established that parents need to be with their children who have serious health conditions, let me try and define that term.

In the legislative proposal, a serious medical condition is defined as "an illness, impairment or medical condition that involves inpatient care in a hospital, hospice or residential medical care facility, or one which requires continuing treatment or continuing supervision by a health care provider.

I think this term can be further defined in several ways. One, by the functional limitation of the child and the length of time of that limitation, or, two, by the specific diagnosis of the child or, three, by the length of the inpatient hospital stay or, four, by some combination of all of these methods. Such a combination would seem to be a reasonable approach to achieving a fair and workable definition. It is important that individual parents and employers in conjunction with health professionals have the flexibility to meet the needs of the family and the employer. The flexibility should also allow for the variability of pediatric illnesses. The fact that family support systems can also impact on the parents' ability to cope with the situation needs to be recognized as well.

Even geographic issues, such as distance from the hospital, as we've already this morning, can have an influence.

The American Academy of Pediatrics is willing, eager and able to work with you to draft the definition that will meet the needs of children and their families and enable employers to maintain productivity and competitiveness. The stability and economic well-being of both families and employers are vitally important to our society. It is time to address the changing face of American work and family life with reasonable solutions that recognize the value of families while balancing the needs of employers.

Thank you.

[The prepared statement of Dr. Paulson follows:]

American Academy of Pediatrics

TESTIMONY

ON

S.249 THE PARENTAL AND MEDICAL LEAVE ACT

BEFORE THE

SENATE COMMITTEE ON LABOR & HUMAN RESOURCES
SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS
AND ALCOHOLISM

PRESENTED BY
JEROME A. PAULSON, M.D.

THURSDAY, OCTOBER 29, 1987

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Good morning, Mr. Chairman. My name is Jerome Paulson, M.D. I am a pediatrician and a Fellow of the American Academy of Pediatrics, an international organization representing more than 33,000 pediatricians specializing in the care of infants, children and young adults. We have a deep commitment to improving the overall health status of our patients and enhancing the quality of their family life.

In the 1980's there have been many calls to strengthen the American family and to support American business. American business needs a strong and committed workforce. This will be created, in part, by insuring that businesses support families in times of personal crisis such as the birth, adoption or major illness of a child. We compliment Senator Dodd on his determined efforts to design practical solutions to work and family issues that respect both employers and employees.

S.249, the Parental and Medical Leave Act would entitle an employee to 18 unpaid workweeks of parental leave during any 24 month period:

(A) As result of the birth of a son or daughter of the employee.

(B) As result of the placement for adoption or foster care of a son or daughter with the employee.

(C) In order to care for the employee's son or daughter who has a serious health condition.

It is our understanding that the intent of S.249 is to eliminate for parents the painful and often hopeless choice between keeping their job and caring for their child during a medical crisis. Senator Dodd's proposal would allow parents the opportunity to take unpaid leave without the threat of losing their job or jeopardizing their seniority. Having this option available safeguards the family's economic security while the parent fulfills the urgent responsibility to care for his or her child. Clearly, a crisis of this nature does not arise with each and every bout of illness that a child may experience. To ensure equity for employees and employers however, there is a need for parameters within which a serious health condition can be defined. This will be useful for employers as they structure benefit packages and plan for operations management. It will also make it easier for employees to realistically assess their options if a crisis should arise.

The birth of a child and the placement for adoption or foster care are easily definable events. However, the definition of a serious health condition is more ambiguous, and thus more challenging. This term is defined in the bill as:

(A) An illness, impairment or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility.

(B) Continuing treatment or continuing supervision by a health care provider.

For over thirty years, it has been well known that children who are hospitalized get well faster and have fewer complications when their parents are able to be with them. A child's physical and emotional well being heavily depend on parental participation during a serious illness. Children have increased dependency needs when they are sick, and require the unique warmth and security that only their parents can offer. Nelson's Textbook of Pediatrics, one of the preeminent references in the field, states that for very young children, it is extremely frightening to be left alone in a hospital and that parental rooming in is a standard procedure. Allowing parents the option to care for and comfort their seriously ill children is sound pediatric practice.

In this era of shorter hospital stays, parental involvement with the homebound child may be important not only for emotional support but also for medical support. The parent may be the only person available to stay home with the child until he or she is ready to return to school or daycare. The parent may be the only person who can give the child medication as scheduled and observe the child for satisfactory progress or the development of problems.

I want to emphasize that a definition of "serious health condition" is difficult not only for legislators but also for physicians. Many physicians would tell you "Well, I know a sick kid when I see one." In truth, there are many detailed guidelines to determine how sick a particular child is at a particular moment. However, for the purpose of policy development, we need to be able to generalize and identify groups of children, who for health reasons, should have their parents at their side.

While it may be difficult to define "serious health conditions," it can be done. This term can be defined by 1) the functional limitation of the child and the length of the limitation, 2) the specific diagnosis of the child, 3) the length of the inpatient hospital stay, or 4) a combination of all of these methods. A combination of the three would seem to be a reasonable approach to achieving a fair and workable definition. It is important that individual parents and employers, in conjunction with health professionals, have the flexibility to meet the needs of the family and the employer.

It is also essential that there be flexibility to allow for individual variation that characterizes the unpredictable nature of childhood illness. Examples of factors that affect the prognosis of an injury, illness or health condition include the age, weight, and medical history and status of the child. The family support systems can also impact on the parents' ability to cope with the situation. Even geographic issues such as distance from the hospital can have an influence. The parent whose child is referred to a distant medical center may be in a different situation than the parent whose office is next door to the hospital.

The American Academy of Pediatrics is willing and eager to work with legislators to draft a definition that will meet the needs of children and their families and enable employers to maintain productivity and competitiveness. The stability and economic well being of both families and employers are vitally important to our society. It is time to address the changing face of American work and family life with reasonable solutions that recognize the value of families while balancing the needs of employers.

Senator Dodd. Thank you, doctor, very, very much. I appreciate that offer and the suggestions on the definition of serious illness. It's a legitimate problem that's been raised by many over the last several months in our hearings. And that offer is one we'll take you up on, and those suggestions you made are good ones.

I don't want to keep all of you very long. Just a couple of questions, if I could.

You sort of touched on it, doctor, but let me ask you as well, if I can, Ms. Brown, on this whole question of parents being with children. You cited the tragic cases—excuse me, Ms. Sinnock—the tragic case where we have tension going on.

I presume you've seen as well the situations where employers have provided the time for their employees to be with their children. Do you get the same kind of reaction as the doctor does when you watch those cases?

Ms. Sinnock. Yes, I've observed both ends, but I think the majority of employers, like I pointed out, although they give the leave on the front end, they don't for the long haul of the illness.

Senator Dodd. How commonplace is this? I mean——

Ms. Sinnock. Pardon me?

Senator Dodd. Ms. Sinnock, how commonplace is it? How often do you run into the problem of a person being confronted with the choice between their kids and their jobs? Is this something you see rarely?

in every family's life where one parent does not have the choice to come and be with their child.

Senator Dodd. In almost every instance?

Ms. Sinnock. Yes.

Senator Dodd. Doctor, is this your experience as well?

Dr. Paulson. With children with severe illnesses, yes, this is a very, very common problem.

Senator Dodd. Time. What's the average in St. Jude's? You're talking about a national facility so there are people, I presume, from all over the country who go there. What's the population?

Ms. Sinnock. We get 250 new patients a year. Those families come from urban and rural areas that average about 300 miles away.

I would say about half of our families come from rural areas where there is no other medical care.

Senator Dodd. Mr. Snodgrass, you took three weeks off, you had only taken three weeks off prior to being fired?

Mr. Snodgrass. Yes.

Senator Dodd. And was that accrued time you already had, some of that three weeks?

Mr. Snodgrass. During the time that she was in the hospital, I was there with her. And I informed them that she was ill and had a serious illness. And they called me for me to go in and talk with them and let them know how long I was going to be off. And I had no problem with that during the time that she was in the Huntsville Hospital. But the time that she had to spend attending St. Jude Hospital was the time that the problem that I had with the time off.

Senator Dodd. Now, when did this happen? What time of the year did this happen?

Mr. **Snodgrass**. Okay. This happened in this year. It started in May of this year.

Senator **Dodd**. That's when your child was diagnosed as being ill?

Mr. **Snodgrass**. Yes.

Senator **Dodd**. When does the school year end?

Mr. **Snodgrass**. It ended June 6th.

Senator **Dodd**. June?

Mr. **Snodgrass**. June 6th.

Senator **Dodd**. You mean to tell me you were fired because you asked for time between May and June 6th?

Mr. **Snodgrass**. Yes.

Senator **Dodd**. After 16 years?

Mr. **Snodgrass**. After 16 years.

Senator **Dodd**. How do you manage to take care of five kids, the six children?

Mr. **Snodgrass**. How do I manage to take care of six children?

Senator **Dodd**. How old are the children? What's the oldest?

Mr. **Snodgrass**. My oldest son is 16. He's a boy. I have a daughter that's 15, a son that's 14, a daughter that's 13, and a son that's 12. And my little one, Karah, the one that's ill, is eight.

Senator **Dodd**. And the older ones now, I presume, can start helping to take care of the younger ones?

Mr. **Snodgrass**. No. They are taking care of their ownself.

Senator **Dodd**. Ms. Watson, you have three children, three special needs adoption cases is a tremendous burden.

Are you and your husband very affluent to take on those kinds of burdens?

Ms. **Watson**. Not at all. The reason we did this was my husband is also chronically ill. He has end stage renal disease and has been on dialysis for 12 years.

I am a renal nurse. And we did have that experience. When we got the call on Joey, we felt that we were very equipped to care for him because of our vast years of experience. And that was really the start of it all for us.

I don't know. Anyone can take a well child into their home. When you think about like Philadelphia says 3,000 special needs children, they need homes too, they need love and nurturing.

Senator **Dodd**. What is the policy with regard to agencies, or who did you go through to get these children?

Ms. **Watson**. We went through Prince William County where we live for Joey. And the other two came from Lutheran Social Services here in D.C.

Senator **Dodd**. And do you find that the agencies require a time, a certain amount of time, that one or both parents can be with that newly adopted special needs child?

Ms. **Watson**. No.

Senator **Dodd**. Do they ask you for any time commitment?

Ms. **Watson**. What they would have liked when Kathy joined our family, they would have liked her, one of us to be home with her as long as possible. But I did only have a week's vacation that I could take.

Senator **Dodd**. But did they make that a condition?

Ms. **Watson**. No. Not at all.

Senator Dodd. Why not? I would presume that would be sort of a problem. You are taking a child that has those kind of medical needs and bringing her home.

Ms. Watson. My husband was also home. He was unemployed at the time.

Senator Dodd. So that was satisfactory to them.

Ms. Watson. Yes.

Senator Dodd. What if he had been working, what would have been the case?

Ms. Watson. I don't know.

Senator Dodd. Do you think you would have been able to get the child?

Ms. Watson. I would hope so. I would hope so.

Senator Dodd. By the way, Mr. Snodgrass, how are you taking care of yourself now? Are you without work now?

Mr. Snodgrass. When I was able to sign Karah up for social security income and get the rest of the children on welfare, between those two checks, I check out $340.

Senator Dodd. But you are on public assistance, the family is surviving on public assistance now?

Mr. Snodgrass. Yes.

Senator Dodd. Thank you.

Ms. Brown, is this your first child, Katie?

Ms. Brown. Yes, sir.

Senator Dodd. Katie, do you want to be a Senator? [Laughter.]

Ms. Brown. I hope she has that option.

Senator Dodd. I'm sure she will with that voice of hers. A good set of lungs. [Laughter.]

How are you going to now manage this situation? What are your plans in terms of economic security for the family?

Ms. Brown. We both work. We have to both work. We are going to continue to work. The way I work it right now is I'm very fortunate. I have a desk job and I do take work home. I work a seven-hour day and take no lunch, and take work home pretty much every day so that I can be home and spend as much time as possible with Katie.

Senator Dodd. Are you planning on having more children?

Ms. Brown. Absolutely. Not this minute. [Laughter.]

Senator Dodd. Well, I thank you all very, very much.

And Mr. Snodgrass, particularly in your case, we appreciate you being here. It's not easy to talk about your kind of difficulties. You're speaking for an awful lot of people when you come here, and we hope that there will be some changes so that your kind of situation, which is rather common unfortunately, will not be repeated.

And Ms. Watson, we think it's so commendable what you do, you and your husband do, taking on children that otherwise would have miserable lives, they're in an institution or in some foster care arrangement that could be less than desirable.

Ms. Brown, we congratulate you and Katie.

And doctor and Ms. Sinnock, we thank you again for your offer of help and your comments, but my colleague, Senator Hatch is here. I don't want to have you leave without giving him an opportunity.

STATEMENT OF SENATOR HATCH

Senator **Hatch**. Well, thank you, Senator Dodd.

I want to commend you and your staff for the time and effort you have devoted to this series of hearings on parental and medical leave legislation. I think it's important, and I think all points of view have been sought out and have been provided the opportunity to submit their ideas and their concerns for the Subcommittee's record on this very important issue.

And I just want to assure, I want to congratulate all of you witnesses for being here this morning, and I want to assure all of our witnesses this morning that their testimony matters a great deal to me. Even though some of us may not be able to attend the entire hearing, I think your comments will be reviewed carefully by Senators on this Committee as well as all of our staff members.

Now let me just say that I'm in sympathy with the idea that parents should be able to spend time with their children following their birth or adoption. I think it's a good idea.

I respect the studies conducted by Dr. Ed Zigler, a person I have a lot of regard for, and others which indicate that these few months represent really a critical period in the development of not only the child but the whole family.

I might also state that I do have qualms about this legislation which rests primarily on the fact that it is mandatory, and it is mandatory Federal standard. And any time we get the Government in setting universally applied policies, we very often wind up creating more problems than we solve. And so I'm really concerned about that, and I have to work that out in my mind.

I still have some questions regarding such things as the financial impact on small businesses, the potential for age and sex discrimination, and the presumption of employee negotiated benefit packages. So I would like to see us do something that encourages innovation and leave policies, and that gives companies some flexibility to respond to the changing needs not only of business but of the employee too.

And I think we have to get to the root issue, which is the lack of adequate affordable child care. So I'm looking forward to working with Senator Dodd on a child care bill which will deal effectively with this key issue.

So let me just end by saying this, Mr. Chairman, that I am interested in this bill, I am interested in its potential, I want to make sure it's as right as can be. I've got comments on all sides of this bill, and I'll keep an open mind. And I'm certainly interested in everything that was said here today, as well as in the past. And I appreciate your leadership on it.

If I could just raise one matter of protocol, I'd appreciate it.

I was a little surprised to find that the Justice Department representative—I may not agree with the Justice Department's statement that is placed seventh or ninth on this list of witnesses—I really believe that when the Administration, whether it's Democratic or a Republican Administration, when they send witnesses up here, they ought to be put at the head of the list, and especially the Justice Department, because they are key in some of these key areas. But I would suggest any major Assistant Secretary or Assistant Attorney General, as we have in this particular case.

It's also my understanding that Justice wanted to testify in the D.C. hearings before and were refused the opportunity. I only bring that to your attention because you have been very fair, and I am sure that you perhaps did not know about it. But I really think that it's a mistake to do that, and I hope in the future, whether it is a Democratic or Republican Administration, that regardless of whether they agree with us or disagree with us, that they ought to really be up front at the head of the list rather than put on a panel with other people who may or may not share their governmental interest.

Senator DODD. Well, I, first of all, thank my colleague from Utah for his kind comments about the effort of the Subcommittee over the past eight months or so, and am really grateful to him for his comments and thoughts and suggestions.

We've had some very positive conversations about what we're trying to do here in this legislation.

In response to the last comment, I would say we recently had hearings on child abuse and Health and Human Services witnesses preferred to go at the end because they wanted to hear the testimony.

Senator HATCH. Sure.

Senator DODD. This case here, I thought the most significant testimony this morning would be from the GAO, and since that testimony would be something I presumed the Justice Department would want to comment on, I thought it would be worthwhile to have their——

Senator HATCH. I have no problem with that. But I think they should have maybe gone right after the GAO.

Senator DODD. Well, we've done this over the past, having families come up so they lay a little groundwork on some of the problems they face.

We are going to hear from the Justice witness next from the Attorney General's office. But I appreciate your comments and thoughts on that. It's always good constructive criticism.

Senator HATCH. Thank you, Mr. Chairman.

Senator DODD. All right. Thank you all very, very much as well.

Our next panel of witnesses, includes Stephan Markman, Assistant Attorney General; Stephen Shapiro from the University of Baltimore Law School; and Susan Deller Ross from Georgetown University Law Center.

I am going to ask all three of you to join us at the witness table. We apologize for tying you up for the last couple of hours. We hope this may have been worthwhile for you to hear what some of these folks had to say.

We'll begin if we can with you, Mr. Markman. I thought it might be helpful to have two other legal witnesses here. Sometimes I find you can get into a better discussion yourselves about some of these things than members of the Committee.

So I would like to hear from each of you. Obviously your testimony will be made a part of the record. Proceed in any way you feel most comfortable.

And again we thank all three of you for being here.

Mr. Markman.

STATEMENTS OF STEPHAN J. MARKMAN, ASSISTANT ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE; STEPHEN SHAPIRO, UNIVERSITY OF BALTIMORE LAW SCHOOL, BALTIMORE, MD; AND SUSAN DELLER ROSS, GEORGETOWN UNIVERSITY LAW CENTER, WASHINGTON, DC

Mr. MARKMAN. Thank you, Mr. Chairman. I would like to thank the Committee for allowing me the opportunity to offer the views of the Department of Justice on S. 249, the Parental and Medical Leave Act of 1987, and will attempt to briefly summarize my longer prepared testimony.

I will not focus in these remarks on the dollar costs of this proposal or upon the burdens that it will place upon the private sector since other witnesses from the business community have addressed these matters well in our judgment.

I will only note that the adoption of this proposal always certainly presages imminent future debates on the merits of paid parental and medical leave measures, the merits of imposing additional social services mandates upon the private sector, and the merits of national child care standards.

The enactment into law of S. 249 will inevitably be used to justify these further measures. For example, if significant numbers of men or women fail to partake of the entire parental leave period provided for in S. 249, that, it will almost surely be argued, demonstrates the need for paid leave periods.

Mr. Chairman, let me rather focus on the non-economic case against this proposal.

In 1985, the Supreme Court, in its *Garcia* decision, held that with respect to Federal regulation under the commerce clause of the Constitution, that Congress, not the Federal Courts, generally is the primary protector of State sovereign rights and responsibilities. As the Court observed in *Garcia*:

> We continue to recognize that the States occupy a special and specific position in our constitutional system and that the scope of the Congress' authority under the commerce clause must reflect that position. But the principal and basic limit on the Federal commerce power is that inherent in all congressional action—the built-in restraints that our system provides through State participation in Federal governmental action.

In other words, the principal burden of protecting the values of federalism in the commerce context lies with the Members of this body. As representatives, not only of the citizens of the States, but of the States themselves, it is the Congress that is principally vested with the responsibility to preserve the prerogatives of the States within the constitutional structure.

When the values of federalism are weighed, the need to disperse governmental power, the need for public policy experimentation, accountability and diversity in the context of parental and medical leave benefits, the clear balance in the Administration's judgment is struck in favor of State, not national, regulation.

That, of course, is not to suggest that any regulation is appropriate in this specific area, but simply that if it is to be forthcoming, it comes more appropriately from the States and from the national government.

While some States may conclude that disability and parental leave requirements are appropriate subjects for mandatory rules, others may not. Moreover, there is nothing magical about the 26 or 18 weeks specified in this bill.

States that desire to impose leave requirements should be free to determine the amount of leave they deem to be most appropriate and the circumstances of such leave.

We see no need, Mr. Chairman, for a national rule on this subject. It is a matter best left to the private sector, to collective bargaining, and to individual choice.

But, if it appears in the judgment of others that some regulation is desirable, that matter should be left to the States. Already this year, more than half of the States have seen the introduction of parental leave proposals in their legislatures. Indeed, six of them have approved specific measures this year on the subject, while an additional 11 States already have in place similar enactments. In other words, more than one-third of the States already have in place some form of parental leave policy.

Far better than can the national government, these States can gauge their own economic circumstances, the nature of their industries, the unique circumstances of their labor/management relations, and the magnitude of the child care problem, and craft legislative proposals commensurate to the situation.

It is extremely difficult, in light of the ongoing debate taking place on parental leave within the States, as well as the debate occurring in academic and other circles, to understand why these issues ought not to remain those for State resolution; why a single uniform national policy ought to be mandated by Washington, particularly in view of the Supreme Court's admonition in the *Garcia* case, this body has the responsibility to reflect carefully and conscientiously on the federalism implications of what it is proposing to do.

This is a constitutional obligation of the first magnitude. The centralizing tendency reflected by this bill is not difficult to understand. It is not surprising that public officials and other citizens who believe their public policy ideas to be sound want those ideas to be imposed uniformly upon the 50 States. Nor is it surprising that citizens who feel strongly about the merits of a program may want to bestow that program upon as many of their fellow citizens as possible. And it is not surprising that a business or other private entity subject to some form of public regulation would prefer to abide by a single regulation promulgated by Washington than to have to abide by 50 separate regulations promulgated in Sacramento and Springfield and St. Paul.

It is precisely because each of us can understand the impetus toward centralization of governmental authority that we have to be particularly careful to avoid falling victim to this tendency and, in the process, undermining the constitutional balances within our system of government.

Mr. Chairman, in conclusion, let me note that my prepared statement sets forth a number of additional constitutional problems that would need to be considered if this Subcommittee continues to process S. 249 relating to the First, 10th and 11th Amendments, as well as to the Executive's Appointment Powers under Article 2 of the Constitution.

Mr. Chairman, we appreciate the opportunity to be here and we do respectfully oppose the enactment of this measure.

[The prepared statement of Mr. Markman follows:]

TESTIMONY

OF

STEPHEN J. MARKMAN
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL POLICY

BEFORE THE

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
SUBCOMMITTEE ON CHILDREN, THE FAMILY, DRUGS & ALCOHOL

CONCERNING

THE PARENTAL AND MEDICAL LEAVE ACT OF 1987
S. 249

OCTOBER 29, 1987

Thank you, Mr. Chairman. I would like the thank the Committee for inviting me to appear here today to offer the views of the Department of Justice on S. 249, the Parental and Medical Leave Act of 1987.

We understand the laudable goals of this bill -- to enable employees to attend to family needs and at the same time continue with their jobs and careers -- but we think that mandatory federal legislation is an inappropriate way to achieve them. Parental and medical leave is an employee benefit like health insurance, pension plans, or paid vacation. S. 249 directly contravenes our nation's consensus that fringe benefits should be the subject of voluntary negotiation between employers and employees. The voluntary approach maximizes the welfare of employees because it leaves them free to choose for themselves which benefits they most desire. Some employees may have a strong preference for the kinds of parental and medical leave provided for in S. 249. Others, however, may prefer different kinds of benefits. Employees should be permitted to act on their own preferences, rather than having the government choose for them.

Collective bargaining agreements frequently result in a package of benefits which best suit the needs of both the employer and employees. Parental and medical leave may be desirable for some employees, but others might prefer additional paid vacation or dental benefits. The effect of S. 249 would be to make parental and medical leave a mandatory option, almost certainly to the exclusion of some other option which the employees might prefer. In companies offering "cafeteria-style" plans, the diminution of choices would be even more apparent: employees would be required to accept parental and medical leave as one of their "choices," whether they want it or not. We believe this bill would have a detrimental effect on collective bargaining because it would restrict the choices available to the unions, the employees, and the employers by making this particular benefit mandatory.

Let me take as an example the case of a comparatively small business with a fixed amount of money to spend on traditional employee benefits. If the workforce in this business consists primarily of older workers, those workers would likely prefer that the money be spent on enhanced pension benefits since they can foresee a greater need for those benefits in the near future. If the workforce consists primarily of middle-aged employees who already have formed families, they might prefer increased medical and dental benefits. Even if the workforce consists of many people of child-bearing years, those people may prefer other sorts of benefits. For example, if they are engaged in a declining industry, they might prefer job retraining which in the long run increases their life-time earning capacity. The point of this illustration is that the people most directly affected by the benefit plan are in the best position to know their own financial interests. If the federal government forces a particular benefit on them, it deprives them of economic opportunities that in many cases they would value more highly.

S. 249 violates two of the Administration's most fundamental policies: generally relying on the market to fix the terms and conditions of private economic behavior and, whenever possible, relying on state, rather than federal, regulation of private sector activities. Furthermore, as drafted, the bill poses constitutional problems under the first, tenth, and eleventh amendments of the Constitution. For these reasons, the Administration opposes enactment of S. 249.

The Department of Justice has particular legal and policy reasons for opposing this legislation, but other federal departments and agencies also are concerned about its potential effects. For example, the Department of Labor opposes the bill because they believe that imposing mandatory benefits that some employees might desire but others do not limits flexibility and actually would stifle a current, positive trend of employers accommodating the individual needs of their employees. I understand that the Department of Labor will be communicating separately with the subcommittee on this issue in the future.

I would also like to point out that the Government has an unusually liberal leave system. Moreover, the Office of Personnel Management (OPM) has urged federal agencies to show flexibility and accommodation in granting leave to both natural and adoptive parents, and has been conducting a congressionally-sponsored an experimental leave-sharing program which allows federal workers to help fellow employees who have serious medical or personal problems by contributing paid leave. The Administration is supporting an expansion of this demonstration program government-wide over a five year period. The ability to respond to the needs of employees with flexible and innovative solutions would be severely restricted by a national law that imposed a single standard on all employers.

Leaving aside these general policy concerns which have been expressed by various agencies and departments within the Administration, let me turn now to some specific legal and policy issues about which the Department of Justice is particularly concerned.

Minimizing Governmental Interference. This Administration firmly believes that, generally, the terms and conditions of private employment should be decided in the private marketplace, without unnecessary interference by the federal government. The decision of whether to provide compensation in the form of disability and parental leave benefits is one properly left to the affected employees and employers, who can best gauge the benefits and corresponding costs of such compensation.

Ironically, this bill could hurt the very employees it is intended to help. In today's competitive environment, S. 249 would make younger women a potential liability because of the probability they will have children at some point in their lives. This, notwithstanding all manner of equal opportunity in employment legislation, may make young women the victims of subtle discrimination. Although the legislation would apply equally to men as well as women, the far greater likelihood that women would use the law means they would bear the costs.1/

Even though the bill contains an exception for employers who employ fewer than fifteen employees, it would have a disproportionate impact on comparatively small businesses employing more than fifteen workers, which can be crippled by the loss of one or two key employees. This type of small business accounts for more than 50% of the 10 million jobs that have been created during the past four years alone. Requiring these businesses to provide

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1/ See S. 249, § 103. With respect to parental leave, the bill does not distinguish between fathers and mothers. Either, or both, presumably would be entitled to take parental leave. However, experience suggests that new mothers are far more likely to take extended periods of leave than new fathers, who ordinarily return sooner to their jobs following the birth of a child.

these benefits will restrict their ability to employ more workers in the future. This problem may well be exacerbated if the Advisory Panel on Paid Parental & Medical Leave, provided for in S. 249, recommends legislation imposing "salary replacement" costs in whole or in part on employers.

Moreover, requiring this type of benefit necessarily limits the ability of employees to maximize their own compensation and requires those employees who have no use for disability or parental leave to subsidize those employees who have. In employment negotiations, employees may be forced to sacrifice wages or other benefits that they value more highly than the statutorily mandated "benefit" of parental and medical leave. Labor unions and employee organizations should have the maximum freedom to negotiate with employers, and S. 249 would circumscribe that freedom. Finally, to the extent they are able to do so, employers can be expected to pass the increased cost of these benefits on to consumers in the form of higher prices or reduced quality of the goods and services they produce.

Federalism. The Administration's strong commitment to the principles of federalism requires that the Department of Justice oppose federal government intervention in matters that traditionally have been the responsibility of the states, and in which there is no overriding need for national policy uniformity. The states are charged with protecting the health, safety, and welfare of their citizens. They uniquely possess the resources and competence to discern the conditions, needs and desires of their citizens on these issues, and the expertise to enact laws to address those concerns.

The attempt to federalize the law in this area has implications far beyond mandatory parental and medical leave; it is symptomatic of the persistent tendency of government officials in Washington -- well meaning officials -- to act as if only we can fully understand and remedy the problems confronting 240 million Americans. It is this attitude that, in recent decades, has been responsible for the mushrooming growth of a national government that not only has undertaken unmanageable responsibilities, but also has usurped the decisionmaking authority of private citizens and of the levels of government closest to those citizens -- the states and their localities.

This centralizing tendency is not difficult to understand. It is not surprising that public officials and other citizens, who believe that their public policy ideas are sound, want those ideas to be imposed uniformly upon the fifty states. It is not surprising that citizens who feel strongly about the merits of a public program want to bestow that program upon as many of their fellow-citizens as possible. And it is not surprising that a business or other private entity subject to some form of public regulation would prefer to abide by a single regulation promulgated by Washington than to have to abide by fifty separate regulations promulgated in Sacramento and Springfield and St. Paul. It is precisely because each of us can understand the impetus toward centralization of governmental authority that we have to be particularly careful to avoid falling victim to this tendency and, in the process, undermining the constitutional balances within our system of government.

As with many things elemental, there is a tendency sometimes to give the principles of federalism short shrift. I recognize that it is not always easy to identify a bright line between those responsibilities of government that ought to be carried out by the national government and those more appropriately addressed by the states. Even in this Administration, which is deeply committed to ensuring that each level of government operates in its appropriate sphere, we have sometimes had trouble drawing that line. It is important, nevertheless, that those in the executive and legislative branches not lose sight of the inherent responsibility to confront this matter.

This responsibility is particularly acute given the Supreme Court's decision in Garcia v. San Antonio Metropolitan Transit Authority, 105 S. Ct. 1005 (1985). In that case, the Supreme Court held, with respect to federal regulation under the commerce clause, that Congress, not the federal courts, generally is the primary protector of state sovereign rights and responsibilities. As the Court observed,

> We continue to recognize that the States occupy a special and specific position in our constitutional system and that the scope of Congress' authority under the commerce clause must reflect that position. But the principal and basic limit on the federal commerce power is that inherent in all congressional action -- the built-in restraints that our system provides through state participation in federal governmental action.

In other words, the principal burden of protecting the values of federalism in the commerce context lies with the Members of this body. As representatives, not only of the citizens of the states, but of the states themselves, it is the Congress that is principally vested with the responsibility to preserve the prerogatives of the states within the constitutional structure. Whatever the merits of the Court's decision in Garcia -- and this Administration opposes its holding and has supported past legislative efforts to modify the Fair Labor Standards Act in response -- its observations on the role of the Congress in upholding federalism can hardly be disputed.

Because of their importance to this Subcommittee's decision on whether to proceed with S. 249, I would like at this time to briefly revisit the fundamental values of federalism. The healthy respect for the states envisioned by the Framers requires that the national government pay as much attention to who should be making decisions as to what decisions should be made and that, where appropriate, it defer to the states. It was the people of the states who created the national government by delegating to that government those limited and enumerated powers relating to matters beyond the competence of the individual states. All other sovereign powers, except for those expressly prohibited the states by the Constitution, are expressly reserved to the states or the people by the Tenth Amendment.

The Framers of the Constitution set up a structure that apportions power between the national and state governments. The values that underlie this structure of federalism are not anachronistic; they are not the result of an historic accident; they are no less relevant to the United States in 1987 than they were to our nation in 1789. In weighing whether a public function ought to be performed at the national or state level, we should consider the basic values that our federalist system seeks to ensure. Some of those principles include:

Dispersal of Power -- By apportioning and compartmentalizing power among the national and 50 state governments, the power of government generally is dispersed and thereby limited.

Accountability -- State governments, by being closer to the people, are better positioned as a general matter to act in a way that is responsive and accountable to the needs and desires of their citizens.

Participation -- Because state governments are closer to the people, there is the potential for citizens to be more directly involved in setting the direction of their affairs. This ability is likely to result in a stronger sense of community and civic virtue as the people themselves are more deeply involved in defining the role of their governments.

Diversity -- Ours is a large and disparate nation; the citizens of different states may well have different needs and concerns. Federalism permits a variegated system of government most responsive to this diverse array of sentiment. It does not require that public policies conform merely to a low common denominator; rather, it allows for the development of policies that more precisely respond to the needs and desires of citizens within different geographical areas.

Competition -- The states, by providing diverse responses to various issues which can be compared and contrasted, serve as laboratories of public policy experimentation. Such experimentation ultimately is likely to result in superior and in some instances naturally uniform policies, as states reassess their own and other states' experiences under particular regulatory approaches.

Containment -- Experimenting with varying forms of regulation on a smaller, state scale rather than on a uniform, national scale confines the harmful effects of regulatory actions that prove more costly or detrimental than expected. Thus, while the successful exercises in state regulation are likely to be emulated by other states, the unsuccessful exercises can be avoided.

While these values of federalism may often militate in favor of state rather than national action, other factors -- including a demonstrated need for national policy uniformity or for a monolithic system of enforcement -- militate in favor of action by the national government and must be balanced in this process. For example, the need for a uniform foreign policy on the part of the United States clearly justifies national rather than state action in this area. Similarly, in the interstate commerce area, the need for a uniform competition policy argues strongly for national antitrust law; and the need for efficient flow of interstate transportation argues for national rather than state regulation of airplane and rail safety. In other words, by federalism, we are not referring to the idea of "states' rights"; rather, we are referring to the idea expressed in the Constitution that certain governmental functions are more properly carried out at the level of the fifty states, while others are more properly carried out by the national government. Thus, it is critical that we not lose sight of the need to go through this analytic process.

When these factors are examined in the context of parental and medical leave benefits, the balance in the Administration's judgment is clearly struck in favor of state, not national, regulation. While some states may conclude that disability and parental leave requirements are, on balance, appropriate subjects for mandatory rules, others may not. Moreover, there is nothing magical about the 26 or 18 weeks specified in this bill. States that desire to impose leave requirements should be free to determine the amount of leave they believe is most appropriate.

We see no need for a uniform national rule on this subject. It is a matter best left to the private sector, to collective bargaining and to individual choice. But if it appears, in the judgment of state legislatures, that some regulation is desirable, the matter should be left to the states. Given the difficulty of divining the costs and benefits, and determining the appropriate levels of such leave policies, allowing the states to serve as laboratories and to experiment with a variety of approaches to the perceived problems is preferable to imposing national regulation. At least seventeen states -- including

California[2], Tennessee, Louisiana, Oregon, Minnesota, Connecticut, and Rhode Island -- already are experimenting with such laws, and their experience will be instructive to others.[3]

Tenth Amendment Problems. Regardless of the regulatory approach taken with respect to private sector employment matters, federalism principles clearly compel us to oppose federal government intervention in matters that traditionally have been the responsibility of the states where there is no evidence of an overriding need for national policy uniformity. Because state and local government employees would be covered by S. 249, the effect would be to increase state and local payroll costs and substantially reduce flexibility in state and local government personnel decisions. Whatever remains of judicially enforceable restraints on the reach of the commerce power into areas of state sovereignty after the Supreme Court's decision in Garcia, that opinion nonetheless recognized that the political process is the principal safeguard on state sovereignty in our constitutional system. In that spirit, the Department strongly urges that, as a policy matter, the federal government should seek to preserve for state and local governments the authority they need to manage their own affairs (i.e., to provide needed services at a reasonable cost, and on terms that are mutually acceptable to voters and workers).

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[2] California's law recently was upheld by the Supreme Court in California Federal Savings & Loan v. Guerra, 107 S.Ct. 683 (January 13, 1987).

[3] See M. Brannigan, Laws on Parental-Leave Benefits Draw Opposition From Employers, Wall St. J., Oct. 12, 1987, p. 20.

Eleventh Amendment Problems. In addition, as presently drafted, section 109 of S. 249 purports to authorize actions for damages against state governments in federal court. In all likelihood, such damage actions would be prohibited by the Eleventh Amendment, which provides that the "Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." This language has been construed to bar suits against states, or state officials, by citizens of the same state who are seeking damages from the state treasury. See Edelman v. Jordan, 415 U.S. 651 (1974) (Eleventh Amendment bars suit for welfare payments wrongfully withheld). 4/

First Amendment Considerations. Unlike Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(e), S. 249 provides no exemption for religious employers. Without such an exemption,

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4/ Because S. 249 would be enacted pursuant to the Commerce Clause (see section 101(4) of the bill), and not section 5 of the Fourteenth Amendment, Fitzpatrick v. Bitzer, 427 U.S. 445 (1976), is not applicable.

the bill could, in some circumstances, potentially violate the Free Exercise Clause of the First Amendment. [5]

Separation of Powers Problems. In addition to our opposition to federal intervention in this area, the Department of Justice also opposes creation of the Advisory Panel on Paid Parental and Medical Leave, a hybrid commission designed to study means of "salary replacement" during periods of parental or temporary medical leave, and to recommend legislation on this subject to Congress. Under S. 249, the Advisory Panel would conduct a comprehensive study of methods to replace the salaries of workers on parental or temporary medical leave, and propose legislation to implement a system of salary replacement. Even though the members of the Advisory Panel need not be officers of the United States, both the Secretary of Health and Human Services and the Secretary of Labor are designated to serve. If the legislation is passed, these two cabinet officers will be placed in the unenviable, and perhaps unconstitutional, position of necessarily serving two masters. As Advisory Panel members, they would have the ability, and perhaps a duty, to recommend legislation to Congress without necessarily coordinating those policy recommendations with the President or other components of the executive branch. As members of the Cabinet, however, they are first and foremost responsible to the President. This type of conflict would be particularly acute in the case of the Secretary of Labor, who is invested with additional executive authority under Title I of the bill.

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[5] Cf. Dayton Christian Schools, Inc. v. Ohio Civil Rights Commission, 766 F.2d 932 (6th Cir. 1986) (holding that the Free Exercise Clause of the First Amendment prohibited the state from enforcing sex discrimination laws against a religious school, because the refusal to renew a pregnant teacher's contract was based upon the school members' good faith religious belief that a mother of young children should be at home), vacated on abstention grounds, 106 S. Ct. 2718 (1986). S. 249's reinstatement requirement, coupled with its presumption of retaliation, could raise precisely the same issue. Other fact patterns might include a religious school's refusal to reinstate a teacher who had taken disability leave in connection with an abortion. While the question remains unsettled, the views expressed in the Sixth Circuit's opinion Dayton Christian Schools clearly implicate the constitutionality of these provisions of S. 249.

In closing, let me emphasize once again that it is not at all the goals of S. 249 to which we object. Like many in the Washington metropolitan area, I am a federal employee. I know that through years of sustained effort, federal employees enjoy most of the benefits S. 249 would confer. For example, women in the federal workforce may use accrued paid annual and sick leave to take time off around the time of childbirth. They may extend their absence by taking leave without pay, and still retain the security of knowing they can come back to their former job. There is no fixed limit to the amount of leave: it is worked out on a case-by-case basis between the employee and her supervisor. Provision is made for new fathers to take time off as well. OPM has published guidelines urging agencies to adopt liberal leave policies in connection with adoption. Flexible leave without pay policies acceptable to both employees and supervisors allow individuals to take time from work to care for family members who are ill, or to deal with other family emergencies.

In the private sector, I know of businesses and even law firms which have substantially liberalized their leave policies beyond what would be mandated by S. 249. They have done this not because a federal law required them to do it, but because they know that such policies are an inducement to attract and keep valuable employees. In a similar vein, many employers, large and small, offer on-the-job day care facilities for infants and toddlers of their employees. Again, this is a voluntary response to the market, which these employers have undertaken in response to the demands of the workforce. We believe that voluntary programs such as these are vastly more beneficial to both employers and employees in the end, and are infinitely preferable to mandatory national legislation which, over time, would almost certainly become a ceiling, not a floor, on the level of benefits.

Thank you for giving the Department of Justice this opportunity to express our views on this bill. This concludes my prepared statement. I would be happy to answer any questions from the Committee.

Senator **Dodd**. Thank you very much.

Mr. Shapiro.

Mr. **Shapiro**. Senator Dodd, thank you for having me here today. I am an associate professor of law at the University of Baltimore School of Law. My main area of expertise involves issues of federalism and Federal jurisdiction, especially as they are applicable to Federal civil rights laws.

The Justice Department has questioned whether the Parental and Temporary Disability Leave Act of 1987 interferes with the principles of federalism, and may run afoul of both the 10th and 11th Amendments to the United States Constitution.

I am here to respond to the Justice Department's testimony because I believe that the Act is an appropriate congressional response to a nationwide problem. Further, the Act is consistent with the principles of federalism and is not rendered unconstitutional by either the 10th or 11th Amendments.

The Justice Department has asserted that the regulation of parental leave is a matter best left to the States. On the contrary, the Federal Government has consistently taken the lead in establishing protections for the nation's employees. It has provided, for example, wage and hour standards to the Fair Labor Standards Act; protection from health and safety hazards through the Occupational Safety and Health Act; protection from discrimination in employment through Title VII of the 1964 Civil Rights Act, and Age Discrimination in Employment Act.

The Parental and Temporary Disability Leave Act merely provides minimum protections which must be afforded employees who need to take temporary leaves of absence due to parental responsibilities or disability. The State would be free, under Section 401(b) of the Act, to provide additional protection to employees.

The Justice Department has asserted that the Act may violate the 10th Amendment since its protections are extended to most State and local government employees. And in its written statement has asserted it may also violate the 11th Amendment by authorizing Federal Court actions against State governments.

Supreme Court precedence make clear, however, that the Act violates neither constitutional amendment, whether it is construed as an exercise of the commerce power or as an exercise of Congress' power to enforce the 14th Amendment.

If the Parental and Temporary Disability Leave Act is viewed as a valid exercise of Congress' power to enforce the 14th Amendment, then there is no question that the Act does not violate either the 10th or 11th Amendments.

Both of these amendments in different ways protect State sovereignty from Federal Government interference. The Supreme Court has made clear, however, that when acting pursuant to its power under Section 5 of the 14th Amendment, Congress is not bound by the restraints of the 10th and 11th Amendments.

Although this Act does not explicitly mention the 14th Amendment, this is not necessary to sustain its constitutionality under the 14th Amendment. In *EEOC* v. *Wyoming*, the Supreme Court held that legislation could be defended on the basis of Congress' power under the 14th Amendment if "We are able to discern some legislative purpose or factual predicate that supports the exercise of that power."

That does not mean, however, that Congress need anywhere recite the magic words of Section 5 or 14th Amendment for equal protection. There are, in fact, several 14th Amendment bases for the passage of the Parental and Temporary Disability Leave Act. Even though the Act is gender neutral, due to the nature of women's and men's roles in our society, the primary responsibility for child care often falls on women and affects their working lives more negatively than men.

This Act appropriately addresses this gender disparity under the 14th Amendment Equal Protection Clause.

Additionally, the Act helps preserve the new process interests in family integrity.

Even if, however, the Act is used not as an exercise of the 14th Amendment, but as an exercise of the congressional commerce power, it still does not violate the 10th or 11th Amendments.

Recently, the Supreme Court significantly expanded congressional power under the commerce clause over State and local government employees. In *Garcia* v. *San Antonio Metropolitan Transit Authority,* the Supreme Court overruled *National League of Cities* v. *Usury,* and held that minimum wage and overtime provisions of the Fair Labor Standards Act could constitutionally be applied to State and local government employees.

In many ways, the Parental and Temporary Disability Leave Act makes less of an intrusion on State sovereignty than does the FLSA since only unpaid leave is mandated by the Act.

Even more important is the case of *EEOC* v. *Wyoming,* in which the Supreme Court upheld congressional power under the commerce clause to apply the Age Discrimination in Employment Act to prohibit the State of Wyoming from forcing its Game Wardens to retire at age 55. The Court held that the Act did not violate the 10th Amendment because it did not "directly impair the State's ability to structure integral operations in areas of traditional government functions."

Just as requiring Wyoming to continue to allow its employees to work past the mandatory retirement age did not directly impair the State's ability to structure integral operations, neither will require any States to provide their employees with 18 weeks of unpaid parental or disability leave.

Finally, the Justice Department, in its written statement, questions the Act's constitutionality under the 11th Amendment since it authorizes suits against employers, including State government. First, as I stated earlier, there is no 11th Amendment problem at all if the Act is a valid exercise of congressional power under the 14th Amendment.

If the Act is viewed as authorized by only the commerce power, then it may be true that in a small number of suits brought under the Act, those against unconsenting State governments, certain kinds of relief retrospective damages may in fact be barred by the 11th Amendment.

The fact, however, that a very small percentage of the relief authorized by the Act may be so barred is no reason either to deny passage or to amend the Act.

Both public and private employees are covered under the Act. The 11th Amendment, of course, has no effect on actions against private employers or, in fact, against most public employers. Only State, not local government, are protected by the 11th Amendment.

Further, the 11th Amendment does not prohibit the substantive provisions of the Act from applying to State governments or being enforced against State governments through declarative or injunctive relief. Only retrospective monetary relief against State governments is prohibited by the 11th Amendment. In fact, not even all such relief is prohibited since a State may waive its 11th Amendment protection and consent to be sued either in its own courts or in Federal Court.

When a statute authorizes a broad spectrum of relief against a large number of defendants, and only a certain relief against certain defendants would be barred by the 11th Amendment, the proper remedy is for the courts, on a case-by-case basis to determine what relief may be so barred.

For example, 42 USC, Section 1983, the most commonly used Federal civil rights statute, authorizes both injunctive and damage relief against a broad range of public defendants. Since the Supreme Court has held that Congress did not intend to override the 11th Amendment by passing Section 1983, damage relief against unconsenting State governments is not allowed. Congress has never deemed it necessary, however, to amend Section 1983 because of this, nor have the courts declared Section 1983 remedy unconstitutional generally. The response has been, on a case-by-case basis, to determine if any relief requested in a suit was barred by the 11th Amendment, and if so, to deny such relief.

In conclusion, therefore, neither principles of federalism nor the 10th or 11th Amendment presents a bar to the passage of the Parental and Temporary Disability Leave Act.

To the extent that the Act is based on the 14th Amendment, Congress may override the 10th and 11th Amendments. Even if the Act is based wholly on Congress' power under the commerce clause, it is still not barred by the 10th Amendment. In that case, although the 11th Amendment may present a bar to a small portion of the relief provided against certain State defendants, such determinations must be made by the courts on a case-by-case basis.

Senator DODD. Thank you very much.

And, Mr. Markman, I'll give you a chance to rebut that in a minute here. It was a rather lengthy recitation of those cases, and we appreciate it very much, Mr. Shapiro. It helps.

Welcome.

Ms. ROSS. Good morning, Senator Dodd.

I do not have a prepared statement this morning. I was asked basically to be here to answer questions, and I could address questions about both the Acts that you are concerned with and as well about any possible 1st Amendment questions that have been raised in the Department of Justice's written testimony.

Senator DODD. Well, why don't you do that? I mean the testimony does raise questions about potential 1st Amendment problems, 10th and 11th problems.

Ms. ROSS. As I understand their testimony, their point is that this bill suffers because it does not have an exemption for religious organizations like the one in Title VII. And it seems to me that the one in Title VII is not a fitting one for this bill, because the purpose of Title VII is quite different from this legislation.

Title VII generally has prohibition on hiring or firing on the basis of religion and, therefore, there's an exception in Section 702 of Title VII which allows religious organizations to hire or fire on the basis of religion. That does not, however, give such organizations the right to discriminate against people of a particular religion once they have hired them by treating them more harshly than people of another sex or class.

And as I understand their reference to the *Dayton County* Supreme Court decision, what they're saying essentially is that employers should have a right to discriminate against pregnant employees for religious reasons. That, I think, doesn't take account of the fact that they have no such rights under Title VII of the 1964 Civil Rights Act. In fact, when Congress passed the Pregnancy Discrimination Act, which amended Title VII in 1978, it very explicitly made it illegal for employers to discriminate against pregnant women, and there is no religious organization exemption for that. Section 702 simply wouldn't reach that particular question.

So I do want to make it clear that those are quite different concepts and I don't think it's a relevant concept for this.

Senator DODD. Mr. Markman, how would you respond to what Ms. Ross has just said?

Mr. MARKMAN. Well, the concern that we have is that, to the extent that this legislation is applicable to religiously oriented institutions, those institutions may find repugnant policies that require them to provide some minimal form of pregnancy leave, that pregnancy, as well as medical leave perhaps, based upon abortion, and that these institutions may find it objectionable to their own religious——

Senator DODD. That's not the issue, whether or not they may find it objectionable. You raised the question of constitutionality of this before. How do you address the particular situation raised by the Pregnancy Leave Act? Why wasn't that included there? Does that make that Act subject to a challenge, a 1st Amendment challenge in your mind?

Mr. MARKMAN. Well, there's a way that institutions could avoid that. Obviously, if they chose not to give any benefits at all, they wouldn't be required to give pregnancy leave benefits.

The point is you could evade that statute, you could comport yourself in such a way that you wouldn't be required to give pregnancy leave under particular circumstances. They are simply a requirement of equality of treatment.

Here in the statute there is a preferred treatment. There is a preferred treatment that's required of parental leave, and there's a preferred treatment required in those circumstances. I think it's a completely different situation.

I think if you look at the *Dayton County Christian* case that we referred to in our statement, you will find there may well be serious 1st Amendment problems to not providing some kind of out for religiously oriented institutions.

Ms. ROSS. As a practical matter, I don't think it's accurate that under the Pregnancy Discrimination Act an employer could avoid the mandate of that for simply not giving benefits at all. Because what that would require in the context that we're talking about now, namely not being fired from your job, is an employer fire an employee whose absence from work for a few days, in order to treat all employees non-discriminatorally, they would simply have to fire every employee who was unable to work for medical reasons every time they had such a condition. Otherwise, they would be singling out pregnancy for differential treatment.

So, as a practical matter, I don't think that's an answer. And the Pregnancy Discrimination Act does very definitely say that you may not discriminate against pregnant women by firing them.

Senator DODD. Any comments, Mr. Markman?

Mr. MARKMAN. Let me emphasize. I'll be glad to pursue the 1st Amendment arguments. We raise that as a possible argument. The only case law that we have is a case law that we cite in the opinion, principally the *Dayton County* case.

The principal concern we have is not the 10th Amendment, not the 11 Amendment, not the 1st Amendment, not even the separation of powers question.

The principal concern that we have is the federalism policy question, not that this legislation is necessarily in violation of the 10th Amendment. We are very tentative in all of our statements. But we are clear in our view that there is an insufficient problem, there is a sufficient State response at this time to suggest that there's no need for uniformity of legislation at this point in time. We're not suggesting it's necessarily in violation of the 10th Amendment, although the *Garcia* case was a 5 to 4 decision, and I think you can make at least an argument that the kind of regulation in this case going to the employment relationship is at least as intrusive as what the Court tolerated by a 5 to 4 decision in the *Garcia* case so I think it's a close call.

We're not saying it's a clear-cut argument in one way or the other. Our principal argument, and I want to get back to that, I want to emphasize it, is that is one of federalism policy, not one of constitutional federalism. As far as federalism policy, we fail to see where the imperative is for some kind of nationalizing legislation at this point in time.

Senator DODD. You mentioned in your prepared statement was that this was likely because of discrimination against women in employment. I presume that's based on the notion that if a law like this existed, after a year or six months, whatever time you have that triggers the applicability of these provisions, then, of course, these are women who will be taking advantage of them.

I presume you based that conclusion on some studies or something you've done. There've been a number of States, as you know, that have had maternity leave statutes on the book, some of them going back now 15 years or so. And certainly you can compare employment statistics of women in those areas. The argument was made at the time when most of those statutes were being proposed that mandated maternity leave in those States could have the same effect as you've described might be the case here.

Mr. MARKMAN. Yes, sir.

Senator DODD. What have studies examining unemployment statistics in those States that have mandatory maternity leave shown you?

Mr. MARKMAN. Well, we haven't conducted no independent studies here. What we're talking is a very subtle thing. We question whether or not it's capable of quantification through these kinds of studies. Our argument relies more on common sense than it does on empirical evidence. The fact is an employer confronted with two employees, one of whom is a young women who might be someone likely to become pregnant in the future, is obviously going to cost that individual more than the other person. Perhaps an older women, perhaps a male, somebody who fits in a different category, it's simply common sense that an employer confronted with that kind of cost-benefit analysis may opt for somebody who is going to cost him less money.

It's a very subtle thing. You can't put your finger on it. There's very little in the way of statistics, but it seems to me a matter of common sense.

Senator DODD. Let me just offer you some statistics.

Mr. MARKMAN. I'm sorry?

Senator DODD. Let me just offer you some statistics.

Mr. MARKMAN. Please.

Senator DODD. Massachusetts enacted its maternity leave package in 1972. In 1975, unemployment for women was 11 percent. In 1986, unemployment for women was 3.7 percent in that State.

The State of Washington enacted maternity leave in 1973. Unemployment rates for women in 1975, 11.2 percent; 1986, 8.7 percent.

Connecticut, in fact, dropped about 2 percent unemployment for women in that same time period going back in the seventies. Montana the same. Their drop was slighter but the unemployment rate hasn't changed overall. And you can go on. There's many more States that have done this.

But we don't find a single State where a mandatory maternity leave policy resulted in a decrease in women in the workforce. And given the fact that 85 percent of women in the work force nationwide are of child bearing age, we're not talking about older women applying for work in these states.

In every single State where there has been maternity leave, unemployment for women has dropped during this period when the economy has been relatively stable—unemployment figures have dropped.

Mr. MARKMAN. Well, Senator, again I concede I have no statistics in my arsenal. But, on the other hand, I'm not persuaded by those statistics. There's obviously 101 reasons why unemployment figures among women have gone down. There's a long-term trend. There are 101 factors that have nothing whatsoever to do with State parental and medical leave legislation. I think it's very difficult, and I think those statistics certainly don't dispel what I'm saying.

It's very difficult to isolate the impact of this legislation.

There's also a second kind of discrimination that we're concerned will be promoted by this Act. Section 102 defines, among other terms, the idea of a serious health condition as one that includes an illness, injury, impairment, or physical or mental condition that involves continuing treatment or continuing supervision by a health care provider.

I think this definition is overbroad in the sense that it fails to link the definition of serious health condition with any kind of demonstrated inability to do the work for which the employee was hired. For example, if someone has an asthma or an allergy, something considered by many to constitute a serious health condition that requires continuing treatment but, nevertheless, can be a productive employee at the same time, it's difficult to see what the impact of that statute will be other than to persuade an employer again who is confronted with an individual who has that condition to subtly discriminate against him in favor of one who doesn't suffer from that injury, and again will not imposed upon him the same cost that the handicapped individual will.

Senator **Dodd**. Well, I appreciate your comment on that and I think the suggestions made earlier on trying to tighten up and improve the definition of serious illness have been good suggestions. We're listening to others.

I might also point out that there's strong consideration to just having this bill apply to the birth, adoption, and serious illness of the child, and that medical leave for the workers themselves, while an appropriate issue, may not best be addressed under these circumstances.

But, nonetheless, I appreciate your comment on it.

Would you care to respond to some of those?

Ms. **Ross**. Yes. I wanted to respond to the point about discrimination.

I think the important point about this legislation is that it's gender neutral, both for the medical leave, which is very important in my view, and also for the family leave.

Now, there has been a point made formally that if you try to give job protection only to pregnant women and not to other workers who are similarly medically disabled from working, you do give an employer an incentive not to hire those pregnant women. That's why it's particularly important that this medical leave would apply to both sexes for all medical conditions.

And there are statistics on the subject of how many days of work people need for all disabilities, including pregnancy, and generally there are no significant differences between the sexes. That is, women take about the same number of days off from work counting disabilities attributable to pregnancy and childbirth as to men for all the disabilities that they take. So that's one thing that I wanted to say.

And the second goes to the point about the family leave. I think it's suggested in the Justice Department's written statement that men would be unlikely to take the family leave. I think there's no basis for that and, in fact, indeed, if we look at the existing numbers, I think it suggests that men would take it.

For example, when Sweden enacted legislation giving family leave to its workers, initially very few men took it. But, within fairly short order, a very significant percentage of new male parent were taking leave. I believe it was something like 25 percent in fairly rapid order.

Secondly, there are a number of studies, and these are referred to in the House report on the companion legislation on the House side that was issued last year in which it's shown that employers in this country that are giving family leaves to their workers are not giving it non-discriminatorily, they are, by and large, giving it only to women, not to men. It's fairly flagrant discrimination.

So the fact that men are not now taking family leaves on a wide basis is not surprising because of these employer policies of not giving it to the men. When we have a family leave provision that's available to both men and women, I think we'll see both men and women taking it.

Finally, I think it's important to realize that that family leave is not available just for infant care, but it's for the care of seriously ill children, and also that there are men who have testified who said, you know, we were in the position of wanting to take care of our seriously ill children, children with cancer for example. And we need the time off from our jobs, and we've lost jobs in those circumstances.

So I just think it's wrong that there will be a perception that this is something that only women will take and they are, therefore, more expensive. Both men and women have medical conditions, and they shouldn't be fired for having those medical conditions. And both men and women have children and need to be in a position of being table to take care of them without losing their jobs.

Senator **Dodd**. Well, I think it's an equity issue as well. I couldn't agree more with you. We have seen exactly what you've talked about, with corporations that have had parental leave policies, and some of them have had a long history, going back 10 or more years. Very few men have taken advantage of the parental leave policy, but they've been in place.

But those number seem to be changing. Not at any rapid pace. They do seem to be changing where there's a far greater degree of acceptability today of men nurturing and helping raise children than there was when I was growing up.

Also I think there's an equity issue here. Unfortunately we're talking custody cases and the like. The fact a father can stand before a judge and say I have as much right to take care of that child if it gets ill provides a bit more equity in those issues than they might have otherwise had in the past. So there are some other issues.

No one has brought up the *Cal Fed case* either. When it comes to maternity discrimination, it seems to me the court spoke on that case as well.

Do you have any comment on that one, Mr. Markman?

Mr. **Markman**. On the *Cal Fed* case?

Senator **Dodd**. Yes.

Mr. **Markman**. No. The *Cal Fed* case basically said that the California enactment was similar in many ways to what's being proposed here, was not preempted by Title VII. We did file a dissenting brief in that case. But I'm not sure I see how that would impact on the constitutionality of——

Senator **Dodd**. Just in the nature of discrimination as I was getting at.

Mr. **Markman**. I'm sorry?

Senator **Dodd**. I thought it was an important case. Just in the nature of discrimination in maternity leave issues.

Do you have any comments you'd like to make, Mr. Shapiro? Any comments on the points that have been made either by Mr. Markman or Ms. Ross?

Mr. **Shapiro**. I think I covered all the points that were necessary in my earlier statement.

Mr. **Markman**. Mr. Chairman.

Senator **Dodd**. Yes, Mr. Markman.

Mr. **Markman**. Can I make just one more comment?

Senator **Dodd**. Certainly.

Mr. **Markman**. Professor Shapiro indicated in his testimony that our federalism policy concerns we're not well taken because in a great many areas the Federal Government is legislated to the disadvantage of the States, and that indeed we've centralized policy-making decisions in a great many of labor law areas already.

I would just respectfully suggest that the thing that characterizes most of these areas in which the Federal Government has acted in the past are either the idea of civil rights, the idea that there should be equality of treatment between individuals on the basis of race or ethnicity or nationality, or whatever. That's not the issue in this particular legislation. Or else the idea that labor relations in this country ought to generally be subject to some kind of collective bargaining process. Again that's the underpinnings of the Taft-Hartley Act. And again I don't see that as being one of the issues implicated by this legislation.

You have legislation that's runs both contrary to the idea of equality of treatment and contrary to the idea that the collective bargaining process is the process by which most labor law decision-making is undertaken. So I think that the idea that this is simply consistent with the long-term trend in the labor law area misreads the nature of most of that legislation.

Senator **Dodd**. Well, I'm glad you said that because there's a statement in your prepared comments, on page 4, that says, and I quote, "The Administration firmly believes that the terms and conditions of private employment should be decided in the private marketplace."

And if you take that and read it as literally as it sounds, just a variety of different issues emerge. I don't think you or anyone else would want to be held to that standard where there have been a number of questions involving child labor law, working conditions and such, that had it not been for Federal legislation, we'd be still living in the dark ages.

Don't you agree?

Mr. **Markman**. Well, we're sure not coming here testifying against the trend of labor law legislation.

Senator **Dodd**. What I'm talking about, if you take your statement and applied it, when other issues had arisen over the years, about applying some Federal standards in these areas, had we used your argument that you're using today on parental leave, it would have been an unmitigated disaster for this country, don't you agree?

Mr. **Markman**. Well, I don't want to go over that.

Senator **Dodd**. Well, let's take child labor laws.

Mr. **Markman**. Yes, sir.

Senator **Dodd**. Do you have a problem with that? Don't you think the Federal Government should have stepped in there?

Mr. **Markman**. Senator, I would prefer not to testify at this point on anything apart from——

Senator **Dodd**. That's not a hard one.

Mr. **Markman**. Well, child labor laws were a matter of great controversy in the early years of this century. They were a matter of great controversy, you're correct, on much the same grounds that our testimony is focused on today.

Senator **Dodd**. But you don't have any difficulty today?

Mr. **Markman**. No, I don't have any difficulty today.

Senator **Dodd**. I mean confronted with that problem today, you would be sitting here and supporting the Federal Government doing something about child labor?

Mr. **Markman**. Well, I would certainly support either the Federal Government, the State governments acting aggressively in that area to prevent the abuse of child labor certainly.

Senator **Dodd**. So I shouldn't read this statement too literally?

Mr. **Markman**. No. I think the way you should read it is when we talk about individual choice in the private market is that we want to make sure that individual employees have the right to choose. It may well be they choose to take advantage of some kind of parental or medical leave benefit. On the other hand, it may be that an employee happens to be 56 years old and not much concerned with that benefits, and he ought to be able to take advantage of whatever other kind of benefit his firm offers as an option.

Senator **Dodd**. Well, we've heard that testimony. I mean I understand that. We'll hear it again.

Mr. **Markman**. I know you do.

Senator **Dodd**. I think we're talking about something here other than a cafeteria style benefit. We're talking job security here during what happens to be not just—this is not going to the dentist we're talking about here. We're talking about having a baby or adopting one, or having a kid that's really sick, and whether or not your job ought to be in jeopardy when you're confronted with those three fact situations. And I don't think that's a dental appointment.

I think there ought to be a fundamental understanding. We're talking about an entirely different fact situation with demographics that are changing dramatically in our country. And they're going to be affecting our economy in this country. We start looking at what kids, who started school this year, face in the year 2000 when they graduate from school, and it's frightening.

We've had that debate and discussion. I presume we'll have it for some time.

Mr. **Markman**. Senator, it might be trite to say, but let me say it nevertheless, that we don't disagree with the objectives of your legislation.

As is so often the case, the question here is not what is good public policy, whether or not there shouldn't be some opportunity for women and men to have the opportunity to bring up their children at the earliest possible stages.

The question is, who makes the decision and through what processes are these decisions made. And, of course, this is a recurrent question that divides people who look at the government and who look at the Constitution through a different prism.

We certainly respect the objectives of this legislation. I think we emphasize that fairly strongly in our longer remarks, and I would like to say that again.

Senator **Dodd**. I appreciate that. I think sometimes we're looking at different Constitutions.

Yes, Ms. Ross.

Ms. **Ross**. If there was a chance, I wanted to respond to your comment that possibly you're considering dropping the medical leave portion of the bill. And to say that I think that would be unfortunate because it could undermine the very substantial progress that women workers have achieved under the Pregnancy Discrimination Act of 1978.

One of the major end results of that legislation was that women workers who were disabled by pregnancy and childbirth, and there's generally a six to eight-week period after childbirth when you're medically unable to go back to work, have been entitled to get the same paid leave that other workers get who are medically disabled. And that's come as a consequence of treating that period of time, that six- to eight-week period of time as a medical leave.

If we were to go not to legislation which provides both medical leave and family leave, but rather to the family leave alone, what I fear is that employers would start giving women only the family leave, viewing that as the appropriate leave at the moment of childbirth, and that that would become an unpaid leave rather than the paid leave that they've become entitled to under the Pregnancy Discrimination Act.

Moreover, it seems to me that when you have workers who are unable to work for medical reasons, and they lose their jobs at that point in time, it's a very, very serious situation; that people shouldn't be in a position of having to lose their jobs when they have the misfortune of being sick just at the point when they're faced with having medical expenses and increased expenses in general in their life.

So I would hope that that alternative is not pursued seriously.

Senator **Dodd**. Thank you.

Do you want to comment at all?

Mr. **Shapiro**. Just a comment again on something you mentioned earlier, the fact that the Federal Government certainly has in the past taken the lead not only in providing equality in such as against discrimination in employment, but also in providing where the States have just failed in their responsibility to provide minimum benefits.

As you mentioned, child labor laws. I mentioned earlier occupational safety and health, minimum wage standards and the like. And obviously from a historical perspective, what's happened is when the Federal Government first steps in and provides minimal protection, the States many times have then reacted to the Federal Government and should have taken the ball and run with it and provided even additional protections that the Federal Government had not. And the Federal action is what was needed to act as a catalyst to get the State governments to act, and then go either further than the Federal Government has, which again this Act would allow.

Senator Dodd. Thank you very much.

I should point out, Mr. Markman, the Labor Department has sent a letter up here, which I will include in the record, so you are not the only branch of the Administration in opposition to the parental leave bill. They are also opposed to it. And I will ask that their comments be included in the record at this point.

[The letter referred to above follows:]

U.S. DEPARTMENT OF LABOR
SECRETARY OF LABOR
WASHINGTON, D.C.

October 29, 1987

The Honorable Christopher Dodd
Chairman
Subcommittee on Children, Family,
  Drugs, and Alcoholism
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to advise you of the Administration's opposition to S. 249, the Parental and Medical Leave Act of 1987, which you are sponsoring.

You and I both agree on the need to meet the challenge of our changing workforce. However, I am persuaded that workplace flexibility and creativity is the solution in the case of family and medical leave policies. As the Department moves forward with my "Workforce 2000 Project," I am even more aware of the dangers of imposing a rigid, federally mandated leave system on workers and employers.

Within the Department, we have hosted a "Work-Family Expo" to help our own employees learn to balance their work and family responsibilities. This expo served as a model not only for other federal agencies, but for all employers interested in meeting the work-family need of their employees. Further, we are currently designing a clearinghouse on work-family initiatives to stimulate widespread development of effective responses to these issues. This initiative will be managed by the Director of DOL's Women's Bureau, Shirley Dennis, who has long experience with work-family issues and community resource coordination.

In another effort, the Department of Labor (DOL) joined the AFL-CIO and the National Association of Manufacturers to cosponsor the conference on "Work and Family: Seeking a New Balance". Over 1000 professionals who administer or train persons to direct day care and senior citizen programs; academics; and representatives from government, labor and management met to offer workable, creative solutions to work-family dilemmas. Again, the emphasis was on flexibility and the need to respond to different circumstances with appropriate answers.

Many businesses have already voluntarily adopted family leave policies of their own. We believe this trend will continue to accelerate as more employers understand how helpful such policies will be in attracting qualified people to their work force. We note further that some States have legislated family leave requirements and believe, consistent with federalism principles that, if such employee benefits are to be required, they are more properly addressed as matters of state law, not federal legislation.

From many different perspectives, we are learning again and again that the best way to successfully handle work-family responsibilities is for employers, employees and their families, to find their own particular solutions. Imposing a rigid, uniform system on the workplace is not the answer.

Mandating benefits that some employees might require and others do not is unfair because this imposition limits flexibility and actually would stifle the current positive trend of employers accommodating the individual needs of their employees. S. 249 which would require covered employers to provide 18 weeks of unpaid parental leave and 26 weeks of unpaid short-term disability leave, addresses only one or two components of the work-family picture, while ignoring that the work-family dynamic in the workplace is complex.

As I noted above, this lack of flexibility can also hamper our efforts to meet the unprecedented competition in today's work marketplace. Therefore, I ask you to strongly oppose any federally mandated family and medical leave requirements.

The Office of Management and Budget has advised that there is no objection to the submission of this report to the Congress and that enactment of S. 249 would not be in accord with the program of the President.

Very truly yours,

Bill Brock

WILLIAM E. BROCK

WEB:hcw

Senator DODD. I thank you for being here, all three of you, for participating.

Thank you very much.

Our fourth panel is business associations and individual businesses.

Stanley Thomashow, Mr. Thomashow is from the Gussco Manufacturing, Brooklyn, New York. He's the Executive Vice President of Gussco, a medium-sized manufacturer of office supplies, with some 250 employees. He's been with Gussco for the past 20 years. He's also the father of two adopted daughters.

John Motley, III, National Federal of Independent Businesses. Why don't you just sit down in the order I introduce you. John is the Director of Federal Relations at NFIB, an organization of small business owners. Representatives of NFIB testified, I would add, at most of our regional hearings so we look forward to hearing the prospective of the Washington, D.C. staff on this issue.

Edith Williams is with the Edith Williams Agency from Denver, Colorado. She owns and runs a small insurance agency. She raised a daughter as a single parent and is now the grandmother of two.

Jonathan Howe is from the National School Board Association. He's President of the National School Board Association from Northbrook, Illinois.

And, lastly, John Matz, who is with Champion International. John Matz is the Vice President of Employee Services and Development at Champion, employing 23,000 workers nationwide, and another 8,000 overseas. I might add, of course, that Champion is a Connecticut-based corporation. Delighted to have Champion here with us this morning.

We'll begin with you, Mr. Thomashow and move on down the line. And if you could, I just beg your indulgence. We've kept you here already a long time. We have one panel left after your own. If you've got prepared statements and they're long, we'll certainly include them in the record. However you would like to proceed. I don't want to in any way compromise your ability to express yourself here before us. But if we can get through the five of you, we can get to some questions.

Mr. Thomashow.

STATEMENT OF STANLEY THOMASHOW, GUSSCO MANUFACTURING, BROOKLYN, NY; JOHN J. MOTLEY, III, NATIONAL FEDERATION OF INDEPENDENT BUSINESS; EDITH WILLIAMS, EDITH WILLIAMS AGENCY, DENVER, CO; JONATHAN HOWE, NATIONAL SCHOOL BOARD ASSOCIATION; AND JOHN B. MATZ, CHAMPION INTERNATIONAL, STAMFORD, CT

Mr. THOMASHOW. Essentially, the reason why I chose to come forth and approach the committee was that when I heard of the legislation which came through an industry advisory, an alert that there is this terrible legislation being presented in Washington, I said, Gee, it is about time some of us who believe in extending ourselves to our employees in the hope of harmonious relations contact the Committee, say that there are companies out there in America that in fact believe it is time that the corporate sector stop treating its employees in an adversarial fashion, and we step forward with programs that are like this that in fact enhance our position with our people, make them understand that the company is there not just for the managers, but for in fact the rank and file also, and together go forth and try to improve our—I guess it is our cost factors, because I don't see any of the things that are being proposed in this legislation as being extremely costly, but I do see the good relationship that I would engender with my people as being beneficial to the company in their work attitudes.

That is essentially my opening statement.

Senator DODD. I thank you. Thank you for coming forward as well. Mr. Motley, we welcome you. Nice to see you again.

Mr. MOTLEY. Thank you, Senator. On behalf of NFIB's half million members across the country, I want to thank you for the opportunity to come here today and to express our opposition, which you know already, to your bill, S. 249.

I was asked to summarize my statement, so I will do that—I admit, a rather lengthy statement with examples and charts, for the record.

While small business, or at least the small-business members of NFIB and those that participated last year in the White House Conference on Small Business, oppose S. 249, I do not believe that they oppose parental and medical leave per se. In fact, our surveys indicate that roughly three-fourths of NFIB's members across the country provide leave without loss of benefits today.

In fact, providing leave, as the witness before me has said, makes good business sense to many, many business owners in this country. What we do not believe, or what we think is poor business sense, is for the Federal Government to mandate that leave. And I think that is the difference of opinion that we have.

Let me just reiterate, if I can, for you, the concern that the small-business community has expressed over the last year and a half or so since your legislation became well known to them and since the provisions of it became well known.

First of all, you had the White House Conference on Small Business where opposition to mandated government fringe-benefit programs was the number two recommendation, with approximately 1,360 of the 1,715 of delegates voting for that recommendation.

In September of 1986, NFIB polled its half million members with over 100,000 responding. Eighty percent opposed the mandating of that fringe benefit. In the state of Connecticut, it was 77 percent that were opposed.

Senator DODD. I know. You guys let me know that right away.

Mr. MOTLEY. Happy to do that, sir.

And just this last month at the National Advisory Council meeting for the Small Business Administration, the Council passed unanimously a resolution against not only the parental leave bill, but it probably won't surprise you to learn they passed it also against Senator Kennedy's health insurance bill and any of the other legislation which they consider to be mandates.

So I think it is fairly consistent across the country, throughout the small-business community. There are a number of practical problems with the bill. Many of the witnesses whom you so kindly let testify before the Committee as you went across country pointed out numerous problems—problems with collective-bargaining agreements, problems with Workers' Compensation insurance, problems with morale of employees who are asked to pick up overtime. Those are enumerated in my testimony, and some additional ones are also added.

The biggest problem, what I would like to focus on, though, here today, is a problem that we see that the fringe-benefit part of a compensation package for most employers, and I think we talked about this before, is a zero-sum gain.

The employer generally decides what part of compensation is going to be fringe benefits. It could be 20, it could be 30, it could be as high as 50 percent. But once that percentage is set, generally anything new which comes on is sort of measured against what is there already.

What will happen if Congress goes out and starts to pass a series of mandated benefits? Not only your legislation, but some of the other bills which are also in the hopper. We believe that the first thing that will happen is that employers will take a look at the entire compensation package. If they are forced to add a benefit, then they will either reduce some benefits or eliminate some benefits entirely.

That raises to us a question of fairness. Which fringe benefit is more important to a particular employee than another fringe benefit? Is it health insurance, as Senator Kennedy says? Is it parental leave? Is it child care, which I might say that a number of people who work with me think is the most important fringe benefit that NFIB could come along and provide, or is it educational assistance, or pension plans, or any of the other things that companies generally offer their employees as fringe benefits?

Fringe benefits have, really, different importance to different employees, and we simply do not believe that the government should be the one to decide which one is the most important for an individual employee or for a group of employees in this country.

We traditionally, in the United States, have relied upon a very flexible system of collective bargaining in which the government has been as least intrusive as possible. It has generally been left to the employer and employee to decide what the scope of the compensation package has been, with some necessary legislation such as the child labor laws and unemployment compensation which you have discussed here already.

We believe that the system has been, to date, very successful. There is a growing spirit of entrepreneurship in this country. Each year, we set records for new business startups. Each year, we are adding jobs where most of the rest of the countries in the world are not—14,000,000 new jobs in this country since 1982. We have sustained GNP growth where, in Europe, they are very, very concerned because that GNP growth has been stagnant for the last decade.

And I might say that we have assimilated the baby-boom generation, which you and I are part of, probably the leading edge of, and we have also accommodated the phenomena of women moving into the work force in this country, and we have been able to drop unemployment in the last couple of years as the economy has improved.

Most large firms, I think it has come out in these hearings, do provide the type of leave that you are suggesting in your legislation. Our indications—although we don't have specific indication as to duration, paid leave, and all the other types of things—three-fourths of our members say that they also provide some type of leave.

We believe that the system works, so we would ask, why do we move towards a system which we believe mirrors that more of Western Europe in which there are great rigidities in the employer-employee relationship, and we believe that if you simply look at the economic record of Europe over the couple of years, has failed?

In conclusion, parental leave is an excellent fringe benefit. Medical leave is an excellent fringe benefit. But so, we believe, are health insurance—which, by the way, providing health insurance is the biggest problem our membership says that it has, the cost of health insurance for their employees. Child care is excellent; prescription drug plans are excellent. For me, since I have two children who are teenagers, dental care is fantastic.

But NFIB believes that those decisions should be left to the employer and the employee, and not to Congress. We do not believe that Congress should try to micro-manage that relationship. We don't believe that it has worked in Europe, if you take a look at the record, and we certainly don't believe that it will work in this country.

Thank you, and I will try to answer any questions.

[The prepared statement of Mr. Motley follows:]

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NFIB

STATEMENT OF

John Motley III
DIRECTOR OF FEDERAL GOVERNMENTAL RELATIONS

OF

NFIB

Before: Subcommittee on Children, Family, Drugs and Alcoholism of the Senate Labor and Human Resources Committee

Subject: S. 249, Proposal for Government Mandated Parental and Temporary Medical Leaves

Date: October 29, 1987

Mr. Chairman, my name is John Motley, and I am the Director of Federal Governmental Relations for the NFIB. NFIB is a voluntary membership organization with over 500,000 small business owner members. Our membership comes from all of the industrial and commercial categories and reflects the national small business community in its distribution among industries. That is, we have about the same percentage of members in the construction industry, the manufacturing industry, wholesale, retail, etc., as exists in the national business profile.

Today, I also represent the Concerned Alliance of Responsible Employers. NFIB is a founding member of the Alliance, and my comments will also reflect their views. The Alliance represents more than 160 corporations, trade associations, professional societies, and citizen groups actively seeking to ensure that the current voluntary system of benefit structuring remains intact. The Alliance's members believe that the private sector is best equipped and provides the most flexible and efficient response to the changing demands and requirements of today's workforce.

We at NFIB appreciate this opportunity to testify on your proposed legislation mandating parental and temporary medical leave benefits, or "parental leave", as it is commonly referred to.

The 1986 White House Conference on Small Business voted opposition to government mandated benefits, such as parental leave, their number two priority -- second only to the liability insurance crisis -- receiving 1,360 votes of 1,715 ballots cast. While the recommendation was to oppose all federal mandates, it was parental leave that brought this issue into focus, and opposition to legislation was specifically cited.

Further, the National Advisory Council for the Small Business Administration, consisting of 120 small business owners and representatives from around the country, met in Providence, Rhode Island, on October 5 and 6 and passed the following resolution:

The freedom and flexibility that have traditionally characterized the labor management relationship in the American "free enterprise system" are essential to the health of a vibrant small business community. Recent legislative initiatives all interject the federal government directly into this relationship along the lines of the rigid and failed labor-management policies of Western Europe. These initiatives threaten the essential strength and job generating abilities of American small business and should be rejected.

Such initiatives include:

-- The Family and Medical Leave Act, H.R. 925 and S. 249, and any so-called compromise bill that mandates that employers provide this fringe benefit

-- The Kennedy-Waxman Minimum Health Benefits For All Workers Act, S. 1265 and H.R. 259

-- The High Risk Occupational Disease Notification and Prevention Act, H.R. 162 and S. 79

-- Plant Closing Notification Act and the Minimum Wage Restoration Act, S. 837 and H.R. 1834.

Also, the results of our September 1986 Mandate polling were 83% opposed to government-mandated parental and medical leaves (11% favored and 6% undecided). The results for the state of Connecticut varied only slightly: 77% opposed, 14.5% favored, and 8.5% undecided.

Beyond the practical difficulties and costs associated with this particular mandate, which I will elaborate on later, the business community's strong and vocal opposition to parental leave is an outcry of rage on principle: that the Congress would force its judgement onto the employer-employee relationship to a new and unprecedented degree.

Business owners fear that such a precedent, once set, would open the floodgates to an increasing number of attempts to force businesses to pay for every benefit deemed desirable by various elements in the national workforce. Indeed, in the 100th Congress alone, we have a plethora of mandate proposals: the Kennedy/Waxman bills mandating health insurance coverage, the Stark/Gradison proposal for mandated catastrophic coverage, the Ways and Means Committee consideration of employer-paid continuation of health insurance coverage for former employees and their dependents. All this while the ink is not yet dry on the "COBRA" provisions passed without hearings or debate in 1986.

Practical Difficulties in Implementing Mandated Parental Leave

Providing for parental and medical disability leaves is common sense and in very many cases, good sound business judgement; mandating these leaves will be disastrous because of the cost and practical difficulties in implementing such policies, regardless of the circumstances of the particular business and its employees.

Small firms are labor intensive, and it's not unusual for each employee to wear more than one hat; it could be impossible to get temporaries who can perform this variety of functions in a particular manner.

In larger firms, individual job units could be severely hampered by the loss of one employee. One NFIB member who has testified on these bills provides an excellent example. She owns a paint manufacturing plant with 89 employees. They are a job shop: each paint formula is developed to customer specifications, and all paint is manufactured per customer order. The paint they make goes directly on the customer's line and is an integral part of his manufacturing process. Because of this, there is great demand for continual technical service. Her company's particular strength is its ability to both respond quickly to customer line emergencies and meet the short lead times required by just-in-time deliveries.

The company provides group life and medical insurance, for which it contributes 80 pecent of the premium; both short- and long-term disability coverage; and a new 401(K) plan at the request of the employees. They have given salary and wage increases every year since 1958, have had one strike in their 80-year history, but not had even one lay-off. She has testified:

> The company encourages long-term employment and makes every effort to accommodate the special needs of its employees when problems occur. The flexibility needed to make these accommodations would be limited if government were to begin mandating benefits such as leave.
>
> If it were to pass, it would have severe consequences for Rockford Coatings because it would require leaves of such a nature and length that it would threaten the stability of our business. If the legislation were in effect today, paternity leave alone would cost our company four months' service of

> 10 percent of our technical force, including our Rockford lab manager. Paint chemists and service technicians are not available in the temporary market. We would have to choose between overburdening other employees or violating an unreasonable law by denying the leave or hiring replacements. Surely, lawsuits would be inevitable, productivity would suffer and the costs would be grave.

By way of further illustration, consider the description of a small business distributing medical supplies in East Providence, Rhode Island:

> The bill incorrectly addresses "all firms with 15 or more employees" but fails to acknowledge that all 15 jobs within a firm are not interchangeable. For example, a typical small distribution firm is staffed as follows:
>
> 1 Administrator
> 1 Accounting/Finance person
> 1 Accounts Receivable clerk
> 1 Accounts Payable clerk
> 1 Receiver
> 1 Warehouseman
> 1 Shipper
> 2 Delivery Men
> 2 Salespeople
> 1 Purchasing
> 1 Customer Service/Telephone
> 1 Computer Operator/Programmer
> 1 Pricing Clerk/Terminal Operator
>
> Total 15
>
> When an employee is absent it's not as though we were 1/15th understaffed. We are 100% understaffed in that functional area. To fill any one functional job on a temporary basis for six months and then to guarantee the absent employee full re-employment rights represents an unrealistic demand placed upon the employer by the federal government.

If a company can hire a replacement for the leave period, what does the employer do when the original employee returns? Lay off the temporary and face the increased unemployment insurance (UI) cost? In all but 14 states, a temporary replacement laid off after working an 18-week leave period becomes eligible for unemployment benefits.

Then, too, some employers, as one NFIB member has testified, face a unique problem relating to the terms of their collective bargaining agreements. To protect the security of current union employees, the maximum time any temporary may stay within the craft classification is 60 days. In other words, a temporary would actually become a "temporary replacement", such that two to four different temporaries would be required to cover the leave period. The disruptions to the work flow and the team concept are obvious.

The alternative solution, covering for the missing employee with overtime from other workers, presents another set of problems. If an employer foregoes a replacement -- the costs of hiring and training -- and asks existing employees to fill in, he faces overtime costs at time-and-a-half or double-time, less productivity and employee morale problems.

Due to the competitive nature of small business, necessary bid figures for contracts are usually quite precise and the margin for error slight. The concept of using overtime would require the employee, in order for the job to come in on time and within budget, to produce 150% of the normal hourly work. Practical reality indicates that this is not likely to happen. Overtime costs must then be absorbed by the business, reducing or eliminating profit margins.

Benefit Mandates are Detrimental to Employees, Too

In all businesses, benefit packaging is a zero-sum game. There are only so many dollars to go around.

The types and feasibility of benefit packages differ for each employer, based on a variety of factors, such as type of industry, size and skill of the workforce, individual workforce needs, competing standards in the industry by geographic location, and the ability to absorb or pass through costs.

For example, small employers typically institute vacation and sick leave benefits first. As their profitability increases, health insurance is the next most widely offered -- and desired -- benefit.

The number one problem for small employers, according to an NFIB survey, is the cost of health insurance. Legislating new benefits and requiring employer-paid benefit coverage during extended leave periods will only exacerbate this problem. Small businesses expand benefit coverage as their profitability increases; nowhere is this fact recognized in this legislation.

Mr. Chairman, with all due respect to the collective wisdom of the Congress, it just is not possible for Congress to decide for each of America's 112 million employees which benefit is the most important. In fact, it is patently unfair to mandate that a benefit plan for a 55 year-old woman, for example, contain a parental leave provision when such a mandate might well preclude the offering of a benefit such as paid prescriptions, which is much more important for this particular employee.

All companies are not alike all workforces are not alike and certainly all employees are not alike. Flexibility on the part of the businesses and employees to decide on a benefit plan is crucial.

These mandates change the cost of employment and could affect a firm's employment decisions. Sixty-six percent of the jobs for young Americans are provided by small employers. They provide the bulk of the on-the-job training. Small business -- labor intensive and pressed for a competitive edge -- will be forced to overlook these same young men and women.

An architectural firm provides somber testament to "the detriment and harm it (H.R. 925) would cause to the young people, the future of the country":

> We have an Architectural firm with 65 employees, 60% of them are under 30 years of age. 30% have been with the firm over 20 years. The young people are professional, college graduates and our firm is known as "the springboard to Architecture" in Orange County. We provide Health Insurance, Life Insurance, Workmen's Compensation, paid vacations and major sick leave. There are approximately 400 to 500 architects in Orange County who have

worked in our firm and left with our blessing to go on with their careers. Our entire program for young people will come to a roaring halt if this law is passed. We could no longer stay in business with a potential of 30 employees home on paid or unpaid leave, and obviously, all interviewing and hiring would be from the 40 years and older group.

Requiring employers to provide parental leave benefits sets up conditions for potential discrimination. When choosing between two equally qualified candidates, an employer may be more likely to hire the candidate least likely to take the leave.

Congress already has provided a chilling demonstration of this dynamic. In 1982, Congress amended the Age Discrimination in Employment Act, requiring firms with 20 or more workers to provide health insurance for their employees aged 65-69. The amendments also require that the plan be the primary payer of health costs for those workers.

The small business community responded quickly, in the only way it could. Within a year, firms with fewer than 100 workers employed only two-thirds of the elderly workforce. Previously, they had provided jobs for more than three of every four.

Mr. Chairman, mandating these benefits may destroy the very jobs proponents seek to protect. Small businesses create the bulk of our nation's jobs. Small business created the jobs that absorbed the baby boom generation and made it possible for millions of women to move into the workforce. The rigidities of government-mandated benefits will hamper job creation, undermining the American small business miracle other countries marvel at and want desperately to duplicate.

Benefit Mandates in a Global Economy

American businesses do not operate in a vacuum. We are part of a global economy in which we must be able and willing to compete. Small businesses, while not always on the front line, play a vital role as suppliers and in providing services throughout our economic chain.

Since 1980, many U.S. industries have lost their competitive edge in the world market. Indeed, the 100th Congress has recognized this dilemma and formed groups like the Competitiveness Caucus to address this issue. At the same time, however, the 100th Congress has introduced several mandated benefit proposals that will only further damage the ability of these wounded companies and our nation to compete. Mandated benefits are not a new invention. Before we step down the slippery slope of government intervention into the workplace, we should take advantage of the information available to us and learn from other countries' mistakes.

The European experience with mandated benefits is that it has increased the fixed costs of hiring to the point of stagnation. Much of our competitiveness threat is now coming from Japan and Asia. The compensation in these countries is such that government mandating of even a minimal level of benefits for U.S. employees will most certainly reduce our competitiveness and is likely to result in the loss of U.S. jobs.

NFIB has coined a term for this very real danger -- "Europeanization." We fear the effects from following in the footsteps of our European neighbors who have chosen to mandate a large proportion of their total compensation package. The results: few new business starts, no job growth, a sluggish GNP, high structural unemployment, and long periods of joblessness for displaced workers. The charts in our appendices, prepared by the NFIB Foundation, illustrate several of these factors:

> Those nations with the highest proportion of benefits to wages -- Italy, Germany, France and Europe as a whole -- also have the lowest levels of employment growth. (Charts 1 & 2)
>
> These same nations exhibit higher levels of unemployment and longer durations of unemployment. (Charts 3 & 4)
>
> In looking at female labor participation rates, it would appear that increasing fringe benefits (as a percentage of wages) has no effect. (Chart 5)
>
> American companies have been boosting their productivity by adding more capital and more labor, but European companies have been using capital instead of labor. Labor market rigidities, wage and benefit mandates are resulting in excessive substitutions of capital for labor in Europe. (Chart 6)

Further illustration can be found in the remarks of one small California manufacturer:

> "Please recognize that many small manufacturers like ourselves employ largely unskilled entry level people. Our fringe benefits approximate 30% of our wages. We employee 25 people and we compete with wages of $2.50 per day 150 miles south in Mexico, $0.50 -- $0.75 per day in the Philippines and similar total daily labor costs in other pacific basin countries. Programs such as this adds to the growing inability of small companies to compete in the world marketplace.

The Proposed Benefits May be Unpaid to the Employee, But There Are Costs

Because the leave periods stipulated in these bills are unpaid, a casual analysis would lead one to believe these bills are cost free. Nothing could be further from the truth.

Assuming jobs are interchangeable and other employees can fill in, time and a half for a $6.45/hour employee (1982 average wage in firms with less than 100 employees) would require $2,474 in additional wages alone for an 18-week parental leave and $3,573 for a 26-week medical leave. These benefits are not free even when unpaid. Yet the legislation requires recommendations be made to the Congress on implementing paid leave!

The proposed bills require employers to continue the existing benefit arrangements of employees on leave. We know from our 1985 Employer Benefit Survey that two-thirds of the small employers providing health coverage pay the entire premium cost -- the median cost being $75-95 per month for single employees $125 per month for an employee with dependents. These expenses would also have to be carried by the employer for an employee on leave.

Consider, too, the double-whammy of "COBRA" if the employee on leave decides to quit after the 18- or 26-week period -- the employer must then extend coverage for another four months. One member explains:

> We recently had a young woman who requested three-months' maternity leave which we granted. In order to hold her job, we employed a temporary employment service to fill this job as secretary/receptionist. During the leave, we paid all benefits. At the end of the leave time, the individual informed us she had decided not to return to the labor force. In other words, we went through a period of inefficiency and delay in being able to seek and train a replacement (as well as a monetary outlay to cover fringe benefits) for an employee who did not return.

The number one problem for small firms is the cost of health insurance, according to the 1985 NFIB Small Business Problems and Priorities Survey. Mandating these benefits with continued coverage during the leave period acts as a disincentive for employers to offer health insurance.

For those firms that can afford hiring temporaries, there are also grave consequences for their UI rates. The majority of small employers already pay more in payroll taxes than any other form of taxation.

As we stated earlier, using the 18-week parental leave period proposed in S. 249, in all but 14 states the temporary employee would be eligible for unemployment compensation when let go by the employer (see attached chart).

Public Opinion

Mr. Chairman, we have closely tracked your hearings on this issue, and while we commend you for your efforts to take this issue to the people in your field hearing work, we believe the record has been construed to single out a minority of cases where employees were not satisfied with their employer's particular policy or lack thereof. In no instance did we hear the employer's side of the story. Always, there are two sides to a story.

Proponents cite the Opinion Research Corporation's April 1987 polling results indicating that a majority of those polled support "The Family and Medical Leave Act" (a full copy of the survey results is attached).

The complete poll results -- the other side of the story -- bears repeating. A majority of those polled -- a majority of those who support "The Family and Medical Leave Act" -- see the same folly in government mandates that I've outlined in my testimony today. Even the majority of supporters (54%) agree that the government should not interfere in the employer's decision as to whether or not grant parental leave ... 72% of those who are opposed (to the legislation also) hold this opinion.

The majority of both supporters (56%) and opponents (58%) see the possibility that requiring employers to grant parental leave might result in fewer women being hired.

Even more -- 71% of supporters and 78% of opponents - agree that parental leave with the guarantee of job security will be a hardship for many small companies.

Another problem, recognized by a large majority of the public (73%), is that providing unpaid parental leave will not help low-income employees.

Substitute Bills

Mr. Chairman, proponents of the House companion bills, H.R. 925 and H.R. 284, are now touting substitute language -- requiring 10 weeks family leave and 15 weeks medical leave for employees with one year of service in firms with more than 50 employees -- as a "reasonable" alternative. Mr. Chairman, our view on a "reasonable" size standard for exempting businesses from a government mandate is that there is none, and changing the employee threshold at which the mandate applies does not alleviate the concerns of business owners.

David A. Matthews, president of a small medical supply firm says this well:

> "The exemption itself is a clue to the harmful effects of the bill. If such a bill were justified, would it not be equally justified for employees of all companies? Do employees of large companies have babies differently than those in small companies? No. The only rationale for the exemption is recognition that its provisions could sink many small firms. It's like saying, "This is a poison, so we'll only give it to people we think can survive it". (emphasis added)

All businesses are not the same, and very real economic conditions often dictate the availability and length of any leave period or benefit. Mandatory benefits increase fixed costs. Businesses already operating on thin margins could be forced to eliminate jobs and may well be driven out of business.

David Birch, the noted MIT economist, has published a new book in which he discusses the detrimental "hourglass effect" observed in Canada. Government-imposed thresholds have made medium-size firms extinct. The Canadian economy operates with only very large and small firms. Birch is credited for his work in discerning the special dynamism of small firms in creating jobs. His "hourglass effect" is illustrated by these comments of a small business owner:

> If this bill is passed, I am sure that each employer will be extremely cautious when making a decision to hire a person who might fall within these categories. Likewise, I can see that small businesses who now have 14 employees would think twice before hiring any additional help which would automatically place them under jurisdiction of this pending legislation.

Likewise, an appropriate leave time will hinge on many factors -- the employee's medical condition, the needs of the business, the availability of a replacement or other trained employees.

I would argue, Mr. Chairman, that the real question is whether this type of government mandate is needed at all. It's acknowledged that nearly all large businesses provide for these types of leaves. NFIB field survey data indicate 72% of small firms allow time off without loss of benefits. Of the 16.3% "no" responses (11.9% were "no reply"), more than half were from firms with fewer than five employees. The United States' voluntary, flexible benefit system has worked well in this area.

While parental leaves are excellent benefits, they are only one option among many. For instance, small firms are more flexible and more likely to offer part-time jobs that allow women to work and still be at home with their children.

The costs of mandated parental leaves will limit the availability of other benefits. Employers and employees are best able to structure benefit packages; Congressional dictates ignore individual needs and differences.

Congress should not attempt to manage the nation's businesses from Washington. It hasn't worked in Europe, and it won't work here.

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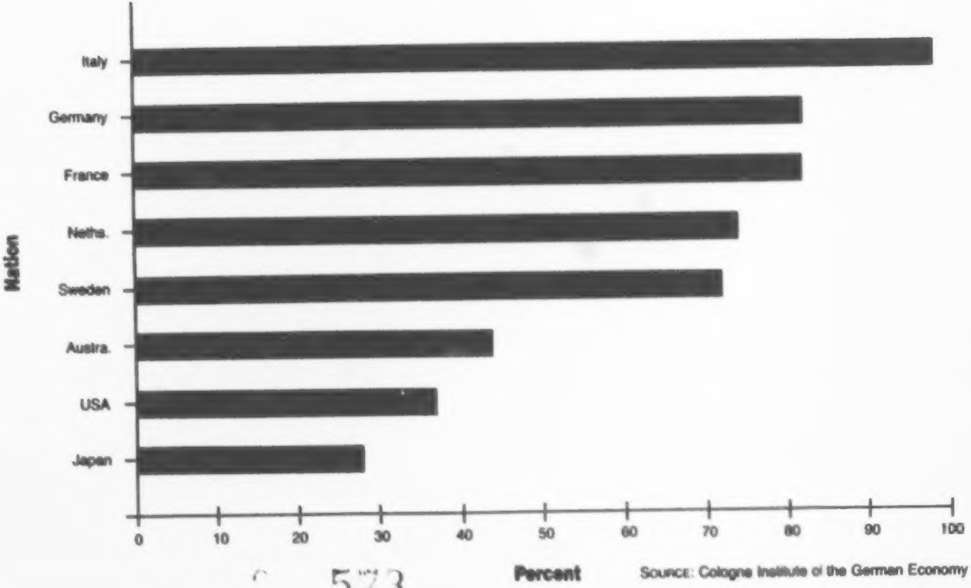
Chart 1

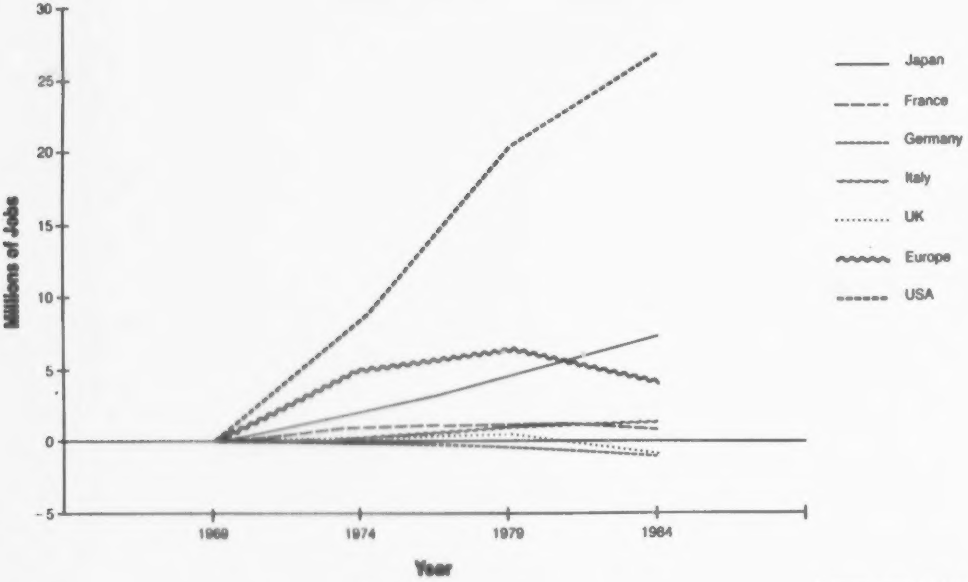
Fringe Benefits as a Percentage Of Wages in Manufacturing Industries By Selected Nation: 1985



SOURCE: Cologne Institute of the German Economy

Chart 2

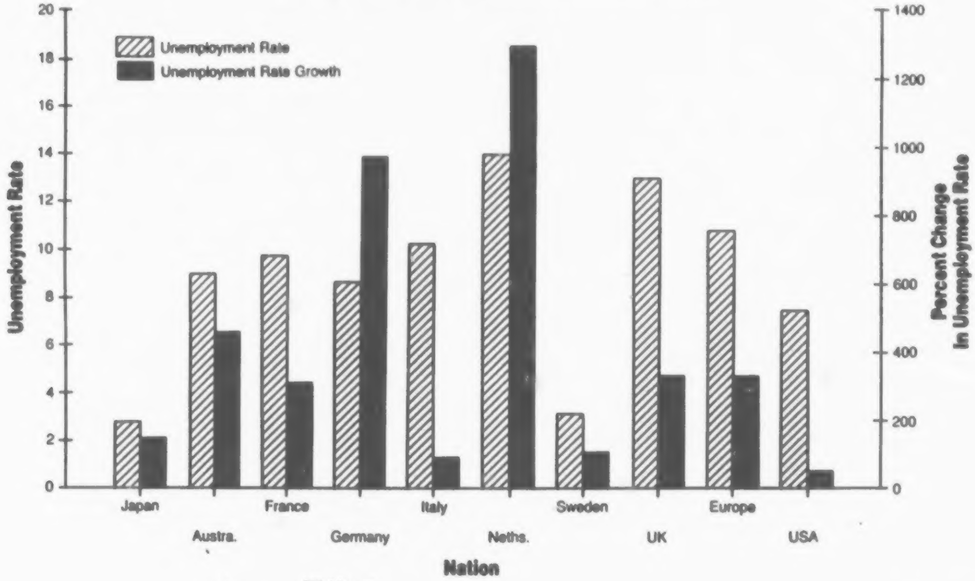
Cumulative Growth in Total Employment For Selected Nations At Five Year Intervals



Source: From OECD data

Chart 3

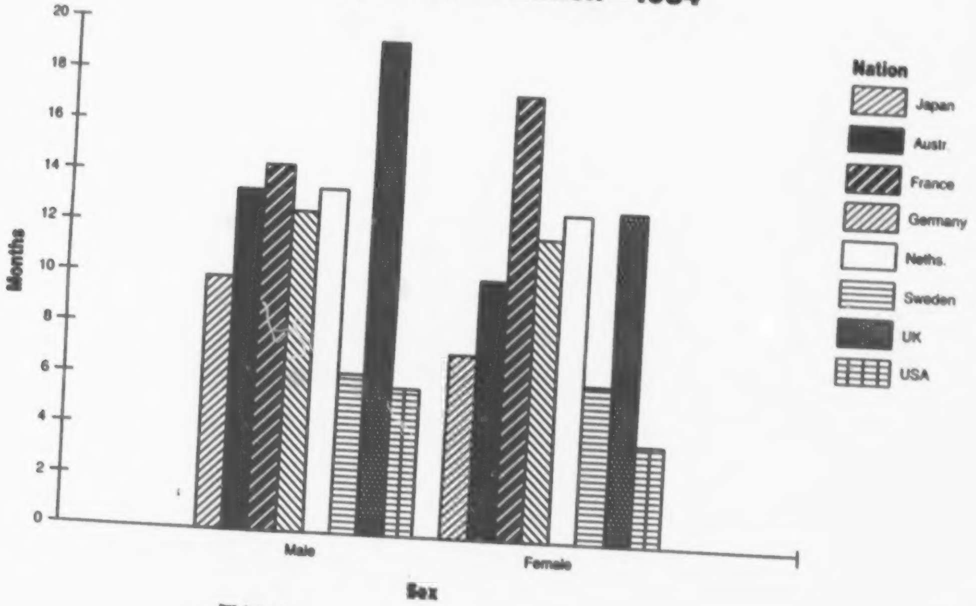
Unemployment Rate (1984) and Percent Growth In Unemployment Rate (1970–1984) by Selected Nation



SOURCE: OECD

Chart 4

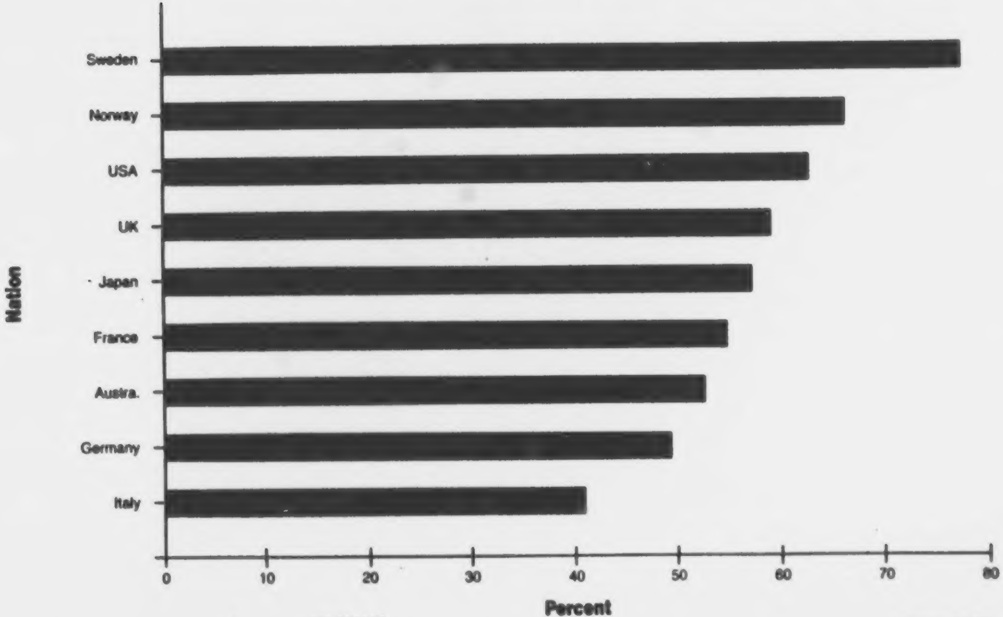
Mean Average Duration Of Unemployment in Progress By Selected Nation—1984



Source: OECD

Chart 5

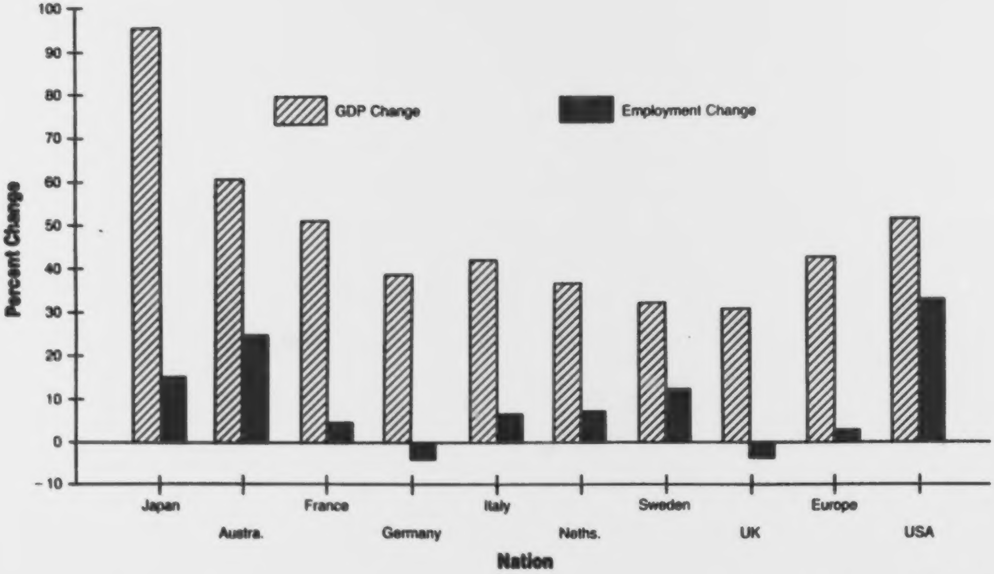
Female Labor Participation Rates By Selected Nation—1984



Source: OECD

Chart 6

Growth in GDP (1970–1985) and Employment (1969–1984) By Selected Nations



SOURCE: From OECD data

Background on Parental Leave/UI Costs

In the current debate over parental leave legislation, little attention has been paid to the impact such legislation would have on the states' unemployment insurance programs. Small firms are particularly sensitive to changes in their labor costs. The majority of small firms pay more in payroll taxes than in any other form of taxation.

The parental leave proposals dictate a period of leave with a provision for reinstatement of the employee to the same or a comparable employment position. If the employer hires a replacement for the employee on parental leave, then dismisses that replacement upon return of the permanent employee, this obviously has consequences in terms of the U.I. program.

Unless the temporary employee has U.I. coverage through an employment agency, the U.I. coverage is the responsibility of the individual employer. Should an employer dismiss the temporary employee, that employer would, under state U.I. laws, become a "base period" employer for purposes of U.C. benefit charges.

Even if, while substituting for someone taking parental leave, the temporary employee did not acquire enough wage credits to qualify for U.C. benefits, he or she may have accumulated additional wage credits from other employment sufficient to meet qualifying requirements.

Let us assume (following the provisions of the proposed federal legislation, H.R. 925) that a temporary employee works 18 weeks, 40 hours per week at the federal minimum wage of $3.35 per hour (18 X 40 X $3.35 = $2,412 in wage credits). If we further assume that the temporary employee in question had no other wage credits from previous employment, he or she would still qualify for U.I. benefits in most states (see enclosed table).

In assessing the impact of parental leave on U.I., it is also important to note how each particular state allocates benefit charges to employers. Employees' benefits can be based on wages paid by more than one employer. Charges to employers are usually allocated in one of three ways: (1) proportionally amongst, the employee's past employers; (2) to the employee's most recent employer; or (3) in inverse order of employment, with the most recent employer paying first. Particularly with methods 2 and 3, temporary employees could prove much more costly than their mere wages would indicate because of the employer's greater potential for being assessed U.I. charges.

POTENTIAL IMPACT OF PARENTAL LEAVE ON UNEMPLOYMENT COMPENSATION

State	Would temporary employee qualify for Unemployment Insurance?*	Basis on Which employers are charged
Alabama	yes	proportional
Alaska	yes	
Arizona	yes	proportional
Arkansas	yes	proportional
California	yes	proportional
Colorado	yes	inverse order of employment
Connecticut	yes	proportional
Delaware	yes	proportional
Dist. of Col.	yes	proportional
Florida	no	proportional
Georgia	yes	proportional
Hawaii	yes	proportional
Idaho	yes	employer who paid largest amount of wages
Illinois	yes	**
Indiana	no	inverse order
Iowa	yes	inverse order
Kansas	yes	proportional
Kentucky	yes	most recent 30 day employer
Louisiana		proportional
Maine	yes	most recent
Maryland	yes	employer who paid 75% of wages; if none, then proportional charge
Massachusetts	yes	inverse order
Michigan	no	inverse order
Minnesota	yes	proportional
Mississippi	yes	proportional
Missouri	yes	proportional
Montana	no	who paid largest amount of wages
Nebraska	yes	inverse order
Nevada	yes	employer who paid 75% of wages; if none, then proportional
New Hampshire	no	most recent***

New Jersey	no	inverse order
New Mexico	yes	proportional
New York	no	inverse order
North Carolina	yes	proportional
North Dakota	no	proportional
Ohio	no	inverse order
Oklahoma	no	proportional
Oregon	yes	proportional
Pennsylvania	yes	proportional
Puerto Rico	yes	
Rhode Island	no	proportional
South Carolina	yes	most recent
South Dakota	yes	inverse order
Tennessee	yes	proportional
Texas	yes	proportional
Utah	yes	proportional
Vermont	no	most recent
Virginia	no	most recent
Virgin Islands	yes	
Washington	yes	proportional
West Virginia	yes	proportional
Wisconsin	no	inverse order
Wyoming	yes	proportional

* 18 weeks x 40 hours x $3.35

** Illinois: 1/26 of total base period wages to a maximum of 1/26 of $6,000 per week of benefits paid; North Carolina: amount charged to an employer shall be multiplied by 12%.

*** New Hampshire: benefits paid following discharge for voluntary quit, discharge for misconduct connected with the work or refusal of suitable work will be charged to employer from whom the claimant separated after serving the disqualification.

Source: UBA, Inc.: 600 Maryland Avenue, SW; Suite #603; Washington, D.C. 20024. UBA is part of the National Federation for Unemployment Compensation and Workers Compensation. UBA is engaged in research and educational activities involving current and emerging issues in unemployment and workers' compensation.

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ISSUE WATCH

A Service of the ORC Public Opinion Index

PRESS CONTACT: Harry O'Neill FOR IMMEDIATE RELEASE

A MAJORITY OF THE PUBLIC - REGARDLESS OF SEX, AGE, OR EMPLOYMENT STATUS - SUPPORT PARENTAL LEAVE LEGISLATION

PRINCETON, N.J., MAY 1987 -- Although most people claim not to be aware of The Family and Medical Leave Act, currently being considered by Congress, the large majority indicate support for the legislation after being given a description of its basic content. Such legislation, however, is not without its perceived problems. While being seen as a help in retaining good employees, as a necessity for single parents, and as an aid in providing families with stability and economic security, majorities also believe it might negatively affect the hiring of women, not help low-income employees, and be a hardship for many small companies. These are among the findings of a recent survey conducted by Opinion Research Corporation.

Only about one person in eight, including working women, have heard or read at least a fair amount about the pending federal parental leave legislation, while almost nine in ten claim little or no awareness of it. However, after being given a description of the Act's basic provisions, three-fourths of the public and more than eight working women in ten say they favor it.

On the positive side, as far as The Family and Medical Leave Act is concerned, more than eight people in ten (82%) agree that such legislation is necessary to help provide families with stability and economic security, given the large increase of working women. About nine people in ten (89%) agree that the guarantee of job security provided by the Act is a necessity for single parents who are supporting their families, and more than eight in ten (84%) believe the guarantee of job security will benefit employers because they will be more likely to retain good employees.

The inclusion of both male and female employees in the Act should be well received, as more than three-fourths of the public (77%) agree that fathers, as well as mothers, need parental leave on the occasion of the birth, adoption, or serious illness of a child. Almost as many men (74%) as women (79%) hold this point of view. Further, the argument that parental leave discriminates against those employees with no children is rejected by about six people in ten (59%).

In spite of the sizeable support for national parental leave legislation, some possible problems are recognized. Philosophically, even the majority of supporters (54%) agree that the government should not interfere in the employer's decision as to whether or not to grant parental leave. This would appear to be an important factor in the opposition to the legislation, as 72% of those who are opposed hold this opinion.

The majority of both supporters (56%) and opponents (58%) see the possibility that requiring employers to grant parental leave might result in fewer women being hired. Even more - 71% of supporters and 78% of opponents - agree that parental leave with the guarantee of job security will be a hardship for many small companies.

Another problem, recognized by a large majority of the public (73%), is that providing unpaid parental leave will not help low-income employees, as they cannot afford the income loss.

About the Survey: The findings in this release are based on telephone interviews with a representative nationwide sample of 1,023 adults, age 18 and over, conducted during the period of April 13-15. Results from a sample of this size could have an error attributable to sampling of plus or minus 4 percentage points at the 95 percent level of confidence.

The questions: Attached are the questions, as asked and in the order asked, and the responses.

"How much, if anything, have you heard or read about legislation being considered by Congress called The Family and Medical Leave Act, which deals with parental leave for the birth, adoption, or serious health condition of a child? Have you heard or read a great deal about it, a fair amount, only a little, or have you heard or read nothing about it?"

(Base)	Total Public (1,023)	Working Women (284)
Great deal	3%	3%
Fair amount	9	10
Only a little	29	34
Nothing	59	53
No opinion	0	0

"Briefly, The Family and Medical Leave Act would require all employers with 15 or more employees to offer parents, both male and female, up to 18 weeks of unpaid leave over a two-year period upon the birth, adoption, or serious illness of a child. During the leave, health insurance coverage would continue as before. Also, this Act would guarantee employees the same or a similar job when they return, with no loss of seniority."

"Now, I'm going to read you several statements about parental leave. For each one, please tell me if you strongly agree with it, somewhat agree, somewhat disagree or strongly disagree."

	STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE	NO OPINION
a. "Fathers, as well as mothers, need parental leave upon the birth, adoption, or serious illness of a child."					
Total public	46%	31	10	10	2
Men	42%	32	12	11	3
Women	49%	30	9	10	1
Working women	63%	22	7	8	0
Support legislation	51%	33	9	6	1
Oppose legislation	28%	27	16	26	3

	STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE	NO OPINION
b. "The government should not interfere in the employer's decision as to whether or not to grant parental leave to employees."					
Total public	33%	24	20	19	4
Men	32%	24	19	21	5
Women	34%	25	21	16	3
Working women	34%	22	20	21	3
Support legislation	29%	25	22	21	3
Oppose legislation	49%	23	10	12	5
c. "Parental leave would discriminate against those employees who do not have children."					
Total public	14%	21	24	35	6
Men	14%	20	25	35	6
Women	14%	22	23	35	6
Working women	15%	24	18	39	4
Support legislation	11%	20	26	39	4
Oppose legislation	27%	24	21	22	7
d. "Requiring parental leave might cause some employers to hire fewer women."					
Total public	24%	31	20	19	5
Men	20%	33	22	20	6
Women	29%	30	19	19	4
Working women	31%	30	16	21	1
Support legislation	24%	32	22	19	3
Oppose legislation	28%	30	15	21	7

	STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE	NO OPINION
e. "Because of guaranteeing job security after parental leave, employers are more likely to retain good employees."					
Total public	51%	33	7	6	3
Men	51%	32	8	6	3
Women	52%	33	5	6	4
Working women	57%	28	5	6	4
Support legislation	56%	33	6	3	2
Oppose legislation	37%	32	12	15	4
f. "Providing unpaid parental leave will not help low-income employees who cannot afford to lose income by staying home from work."					
Total public	37%	36	14	9	5
Men	34%	33	17	11	5
Women	39%	38	12	6	5
Working women	41%	39	9	6	6
Support legislation	38%	37	15	8	3
Oppose legislation	37%	34	13	10	7
g. "The guarantee of job security after parental leave is a necessity for single parents who must work to support their families."					
Total public	67%	22	4	5	3
Men	60%	26	6	6	2
Women	74%	17	3	4	3
Working women	75%	13	4	5	3
Support legislation	74%	21	2	2	1
Oppose legislation	44%	24	13	14	5

	STRONGLY AGREE	SOMEWHAT AGREE	SOMEWHAT DISAGREE	STRONGLY DISAGREE	NO OPINION
h. "Requiring parental leave with a guarantee of job security will be a hardship for many small companies."					
Total public	34%	38	16	9	4
Men	33%	38	16	9	4
Women	34%	37	16	8	4
Working women	36%	36	17	8	3
Support legislation	30%	41	18	9	2
Oppose legislation	52%	26	11	9	1
i. "Because of the large increase of working women, this parental leave legislation is necessary to help provide families with stability and economic security."					
Total public	45%	37	8	5	5
Men	42%	39	8	6	5
Women	48%	34	9	4	5
Working women	54%	26	9	3	7
Support legislation	51%	39	5	1	4
Oppose legislation	22%	30	23	21	5

(Bases for a - i above are as follows:

Total public	1,023
Men	516
Women	507
Working women	284
Support legislation	759
Oppose legislation	234)

"All things considered, how strongly do you favor or oppose parental leave legislation at the national level? Would you say you strongly favor it, somewhat favor, somewhat oppose, or strongly oppose it?"

	Total Public	Men	Women	Working Women
(Base)	(1,023)	(516)	(507)	(244)
Strongly favor	33%	29%	37%	45%
Somewhat favor	43	45	41	37
Somewhat oppose	12	15	9	7
Strongly oppose	9	9	9	8
No opinion	3	2	4	2

Senator **Dodd**. Thank you, John, very, very much. I appreciate that. Ms. Williams.

Ms. **Williams**. I believe I arrived mostly today because I did oppose the Chamber of Commerce of Greater Denver when they came out in opposition to your bill.

One of the reasons I opposed it is my background is actuarial. My agency is that of a small insurance agency, but I do provide employee benefits as a specialty. I agree with the estimate of the GO this morning that the Chamber of Commerce exaggerated in their estimate of the cost.

The other two reasons why I would like to address you today is, first of all, I can only back up the information and the hardship which occurs when women, because of maternity, or now fathers also, who would like to be there during the bonding period of their child or when a child becomes ill—that period of time when they lose their job is terrible.

I work as an employee-benefits specialist, and I am a very small businesswoman. I have brokers working for me, but I have only two full-time employees.

While we supply a basic human effort, and we supply employees, as my colleague from the Small Business Association says, we supply them voluntarily, and my experience has been that there may be ten employers who will provide it, but I sincerely believe in a standard basic mandate of the government, because what about one employee like the man this morning, who loses his job? That is the one I am concerned about.

Europe has been quoted as being stagnant. I am very familiar with the European background. As you probably can tell, my tongue still doesn't curl very properly in American English. I was born in West Germany.

Now, West Germany I don't think is a stagnant economy, and that is where my total knowledge is. My sister is an economist. She has a Ph.D. for the Helmut Kohl party in the State of Hessian. She has provided me with statistics which I would be very glad to send to your office.

The other information is from the actual support of the maternity leave, which goes back as far as the 1960's. They call it maternity leave, but now the European economy, or the European economic community, has brought out in their proposal a family leave which would be used similarly as you are suggesting in your bill.

The six weeks before childbirth and eight weeks after childbirth have given rise to a new employment in Europe, and there, of course, the female employment has been going up steadily—maybe a little bit more slowly than in this country. We are more aggressive in this country. But it has not hurt the employment of women at all. And I spoke to a Dr. Siegrill, who is the advisor to the Ministry of Family Affairs in West Germany—again those statistics are available.

I feel very sincerely that no one—for instance, I am a grandmother; I would not in any way feel discriminated against if one of my young women would ask for maternity leave or family leave. After all, we do have to give a little back, and we do enjoy the babies, whether they are ours or our children's.

So I can see, first, no discrimination. I can not see that there would be discrimination in hiring. Most of the women's jobs are, right now, in the lower pay scale. We all know that. Therefore, these jobs can be easily filled temporarily, and as we progress, as we become more advanced in our positions and receive higher wages, then, of course, we become much more indispensable, so I can not see the statistics at all that women would be not hired.

I did not make a prepared statement because I only flew in very shortly, but I will give it to you if there are any questions.

Senator DODD. Thank you very, very much, Ms. Williams, for being here, and we need the background you bring, and experience, to talk about the issue. We are very grateful to you.

Mr. Howe.

Mr. HOWE. Thank you, Senator Dodd, very much. I appreciate this opportunity to testify on behalf of the National School Boards Association on the parental and medical leave bill as it would apply to some 15,400 local school districts across this country.

At first I wondered why we were on the panel with business, but I just guess we have to look and realize that in many communities the largest business in that community is the school district. It has the largest transportation system. It probably is also the largest provider of food service in that community, and, yes, we do try and we do have as our main task the education of children in this country.

Virtually all public-school districts in this country have leave policies which in some respects are much more generous than that which would be proposed through S. 249.

Our opposition to this bill is that by expanding the categories and the terms for taking leave, and by effectively precluding school officials from exercising discretion to alter or deny leave requests, the quality of education for children in the classroom will suffer.

As you noted earlier, Senator, the problems that are facing children today who come into our schools and who are now a member of the class of the year 2000 are rather overwhelming. And in other words, what we would see and what we fear is that as a result of this particular type of legislative approach maybe one child will benefit, but every child in that affected classroom who has a teacher gone from it will definitely suffer from not having the continuity.

For example, currently school districts retain the discretion to require employees to return from family leave at either the beginning of a semester or at the beginning of the school year. By contrast, this bill would provide classroom teachers with the opportunity to take non-emergency leave just weeks before the end of a school year, when review occurs, when tests are developed, when children need the continuity of their teachers, when students are evaluated for grading. And likewise, a teacher could return from extended leave with just one or two weeks remaining in the school term. Both situations are unfair to the students in the classroom.

The disruptive impact more than breaks the continuity of academic programming for an elementary teacher's 25 students or a high school English teacher's 100 students or a special education teacher's eight students. Frequently it means we are not even able to find competent substitutes to come in for purposes of handling those classroom responsibilities.

Clearly, the task of replacing a physics teacher or special education for the handicapped who in mid-May or who several times within a year elects family leave would be impossible for many of the local school districts in this nation, especially those in remote areas. And then let's double the problem where both husband and wife happen to be employees of the very same school district.

The leave policies adopted by school districts focus on the primary purpose for school district employment—education. And it also recognizes the unique character of the school calendar, which allows employees substantial flexibility by providing about 20 in-year official holidays and nearly three months during the summer, during which time non-emergency leave should be attended to if possible and if the school district can not otherwise accommodate the teacher's leave request.

The bill provides virtually no managerial discretion to deal with potential abuse by an employee who plays the system and subjects the narrow judgments school officials can make to the Labor Department's regulatory and administrative process.

I might say parenthetically too, Senator, that in looking at the enactment legislation for the Department of Education, it is very clearly spelled out in that legislation that the Department may not effect or issue regulations or attempt to issue regulations which adversely impact upon the local school district's ability to administer its curricular affairs.

And cost aside, it is inappropriate that an agency, both educationally and as a matter of Federalism, to oversee the day-by-day, case-by-case schoolhouse decisions made by the school district government, would be replaced by the Secretary of Labor.

The implementation of this bill would involve new costs in such areas as health insurance; salaries and benefits for replacement employees; unemployment compensation, which must come at the expense of the taxpayer; other items in the employee compensation package; or more likely the quality of educational services provided will be adversely impacted.

In summation, because lost education can never be recaptured, on behalf of some 97,000 School Board members, most of whom are elected, and as public officials who are elected to govern our nation's systems of education, we must object to the application of this bill to the school district setting.

[The prepared statement of Mr. Howe follows:]

NSBA

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TESTIMONY

on behalf of

THE NATIONAL SCHOOL BOARDS ASSOCIATION

on

PARENTAL AND MEDICAL LEAVE ACT
S. 249

before the

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

of the

COMMITTEE ON LABOR AND HUMAN RESOURCES

United States Senate
430 Senate Dirksen Office Building

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I) INTRODUCTION

I am Jonathan T. Howe, President of the National School Boards Association (NSBA) and a member of the Northbrook Board of Education, Northbrook, Illinois. The National School Boards Association is the only major education organization representing local school board members, who have the responsibility of governing the nation's public schools. Throughout the nation, approximately 95,000 of these individuals are Association members. These people, in turn, are responsible for the education of more than 95 percent of the nation's public school children.

The National School Boards Association appreciates this opportunity to testify on the Parental and Medical Leave Act. At the outset, we wish to point out that virtually all school districts currently have parental and medical leave policies -- many of which contain elements more generous than the provisions of this bill. However, after careful consideration of S. 249, which included a survey of school districts comprising 14 percent of the total national student enrollment base, we are forced to conclude that application of this broad legislation to the school setting would be a serious mistake.

Before presenting NSBA's specific points of concern it might be helpful to explain the general perspective from which we have approached this legislation.

Currently, the American people are demanding that within affordable tax limits the three levels of government do more to increase the effectiveness of public education than at any other time in history. Accordingly, we believe that when proposed federal legislation seeks to promote other interests in a manner which substantially or unnecessarily detracts from the achievement of the nation's educational objectives, the wisdom of that legislation must be questioned. The Parental and Medical Leave bill, which was not created with the classroom specifically in mind, falls within that category.

Because local school board members are elected or appointed to govern the nation's local school districts, our opposition is solely based on the negative impact which it would have on the nation's 40 million public school children -- including those who are the children of school district employees.

In urging the rejection of this legislation in the school district setting, we want to emphasize that our opposition is not tied to the adoption of leave policies by local school boards. Rather, we object to the federal government imposing upon local government a mandate which 1) contains specific provisions which are not a part of current practice precisely because of the negative operational impact which they would have on the education of school children, 2) contains unnecessary financial costs which would have to be borne either through increased local property taxes or through reduced educational services to school children, and 3) alters the employer/employee relationship in the performance of our primary governmental purpose.

II) REVIEW OF PRACTICAL PROBLEMS RAISED BY THE LEGISLATION

Perhaps it would be best to begin with a review of several practical concerns that this legislation would present in the school setting.

A) Interference with Classroom Process

The bill would provide a classroom teacher taking three months of extended leave with the absolute right to return to the classroom just two weeks before the end of the semester or the school year. By contrast, most school districts retain the discretion to require that teachers return to the classroom from extended family leave only at the beginning of the semester or at the beginning of the academic year. The reason for this policy is twofold. First, classroom instruction is designed to be built progressively over specific time periods. Secondly, in academic subjects, review occurs at the end of the semester, teachers develop tests based on the material they cover, and students are evaluated (i.e., graded) on the basis of semester or year-round performance. We believe the educational merit of the timing of a teacher's return should rest within the discretion of local school officials.

Likewise, the bill would provide teachers with the absolute right to begin non-emergency leave two weeks before the end of the school year, even though 1) the 37 week school year normally allows the summer to be used for those purposes, and 2) official vacation periods during the school year typically cover approximately 20 days.

In addition to the disruption of the educational process, a school district may be unable to find a competent substitute to teach the subject matter, test and grade the students, and do other year-end paper work. The task of replacing a physics teacher or special educator who in mid May elects to take family leave, would be impossible for many of the nation's 16,000 local school districts -- especially remote, less populated areas.

While much of the debate on parental and medical leave has focused on extended periods of leave, the bill applies to short-term leave in ways which can be equally disruptive to the classroom. For example, S. 249 does not limit the number of times during the school year that a teacher may take several days of family leave.

Additionally, S. 249 would allow a teacher to take reduced hour family leave -- that is, to work on a part-time basis. Although the bill would allow a school district to deny a reduced work schedule that "disrupts unduly" the operation of the employer, any such decision apparently could become subject to a case-by-case (educational) judgment by the Federal Department of Labor.

In view of the vacation periods available to teachers both during the school year and during the summer, many school districts have policies which preclude employees from taking non-emergency leave on days immediately before or after holidays. The purpose of these policies is not predicated solely on financial concerns, but rather, to discourage idle class days, and to send a message to students and parents that the presence of their teacher in the classroom means that learning will occur on those days -- and they too are expected to be present.

Under S. 249, a teacher could take family leave to vacation with an infant or visit a parent who is under some form of medical supervision (not necessarily serious or requiring the care of the employee). Apparently, the bill would not allow school districts to object that an employee's regular or very frequent Friday days off for family leave or the employee's own medical purposes was becoming a problem on educational grounds.

The difficulties posed by the above examples cannot be resolved by adding "rules of reasonableness" that are subject to Department of Labor review for several reasons. First, the timing would not make that approach feasible. Secondly, federal agencies should not be empowered to determine day to day administrative decisions as to what constitutes sound educational practice. Finally, any after-the-fact review involving financial damages will only serve to "chill" school administrators from making educationally sound judgments in the first instance.

The fact that the leave is unpaid loses significance for those employees who can afford the leave. Moreover, because school districts typically provide teachers with personal leave and paid sick leave (which can be carried over to subsequent years), employees would have the option under the bill of utilizing that leave first -- even though the school district would have denied the paid leave under its own standards. In effect, the bill not only adds the right of unpaid leave, but changes the school district's criteria for granting paid leave as well.

B) Problems of Student Safety

Under current practice, school officials retain the discretion to require employees who return from an illness to produce medical certification of fitness for work. By contrast, the bill, by its' silence, implies that the employee must be returned to the same or equivalent position on his or her word of fitness to perform the job function -- subject to normal on-going reviews of competency. We beleive that for employees such as bus drivers and teachers, any procedure precluding medical certification of fitness would be irresponsible and unacceptable to the parents of most communities for certain causes of medical leave (e.g., airborne communicable diseases or emotional instability).

C) Problems of Abuses

School employees are hard-working and dedicated persons. However, the bill sanctions a looser good faith "ethic" for taking leave to the detriment of the educational process. Further, the bill will encourage abuses stemming from a process which leaves school administrators with little substantive discretion and no feasible procedural mechanism for denying leave when cases of abuse arise.

For example, the school district would be unable to refuse leave to a clerk or maintenance worker who consistently visits a parent under non-emergency medical supervision during peak work periods (i.e., the fall opening of school, the opening of a new school, snow removal, or the budget season). Likewise, it would require school systems to reinstate employees whose principal employment interest is to obtain short-term income with long-term access to very generous employer-paid medical benefits for themselves and their families during non-work periods.

Additionally, the bill would preclude school districts from terminating health coverage or denying job reinstatement to an employee who seeks 18 weeks of family leave and principally uses the time to pursue training or employment in another field -- or who otherwise principally uses the leave for a purpose not covered by the legislation.

III) THE FINANCIAL COSTS OF THE LEGISLATION

Because the legislation 1) broadens the number of categories for which leave can be taken, 2) significantly eliminates managerial discretion to refuse or alter the terms of the leave, 3) and allows employees to convert their unpaid leave into paid leave (including leave that is carried over from previous years), the costs for school districts would be substantial. In instances when the leave is unpaid, many school districts would become obligated to pay the employee's medical insurance when heretofore that had been the obligation of the employee during periods of extended leave.

Even in cases wherein the new opportunities for leave created by the bill do not result in additional financial benefits to the employee beyond current policy, additional costs will nonetheless extend to the school district. Those costs include, but are not limited to paying over-time to central office staff; training replacement bus drivers and cafeteria workers; paying these replacements at essentially the same salary plus fringe-benefits as the employee taking leave; extending the right of family and medical leave -- and job restoration -- to substitute teachers, etc.

Because of the power which the bill extends to employees to command the dates of their leave and return, school districts lose the authority to coincide those dates with the summer vacation period or other holidays. Alternatively, in abolishing this discretion, S. 249 extends a cost burden which is much broader than merely hiring short-term substitutes, for it carries with it attendant cost of unemployment compensation.

Any of these new costs will come at the expense of the local taxpayer, or more likely reduced services for school children.

IV) ROLE FOR THE DEPARTMENT OF LABOR RAISES CONCERNS

The bill envisions a role for the federal Department of Labor which raises additional concerns for local school districts.

In the relatively narrow instances of managerial discretion allowed by the bill, the judgments of school officials would be appealable to an administrative law judge. For example, the bill would allow a physics teacher, bus driver, or building principal to take family leave on a reduced hour schedule basis, provided that the school district's operations would not be "disrupted unduly." However, what constitutes an undue disruption may be the type of judgment contemplated by the bill's complaint procedures. If so, the question would boil down to determinations of whether the nature of the teaching assignment can educationally justify using part-time teachers for the duration of the leave, the availability of part-time persons to perform the job, and the budgetary trade-offs occasioned by employment of a part-time person (e.g., is the cancellation of student field trips to pay for reduced scheduling an undue disruption?)

Clearly, these day-to-day substantive schoolhouse management decisions should not be made by administrative law judges. Regardless of whether school officials spend time and money to defend these decisions, or simply decline to assert their managerial judgment to avoid becoming entangled in federal adjudicative proceedings, the result will be harmful to school operations.

The bill presents procedural concerns as well. Currently, many school districts have collective bargaining agreements which provide for the resolution of disputes. Additionally, several states have enacted family and medical leave legislation. Because the bill seeks to co-exist with state and local processes -- rather than being triggered by their absence -- employees would be in the position to forum shop or even seek the best of several rulings.

In essence, the involvement of the federal Department of Labor will give rise to a whole new body of law, regulations, data collection requirements, damage awards, attorney fees, etc., that, in the school setting, will disproportionately diminish the amount of energy and funding that otherwise would be available for instructional programs or other elements of the compensation package.

V) INTERFERENCE WITH INTEGRAL FUNCTIONS OF LOCAL GOVERNMENT

From the foregoing, it is clear that despite existing school district policies in this area, S. 249 seeks to implement federal rights and procedures which will substantially interfere with the conduct of local school district government. As such, the bill represents an historic departure from the tradition of federalism that has enabled three levels of government to serve and be responsible to the citenzry for their respective governmental purposes.

Although the federal government has previously legislated in limited areas of public employer/employee relations (e.g., minimum wage provisions), the impact of those laws on the day-to-day operational decisions of local school districts government is far less entangled than either the substantive rights or the educational judgments that would be assigned to federal administrative judges under this bill.

Following earlier efforts to legislate a federal collective bargaining bill for public employees, the prevailing wisdom has been that the federal government should not be involved in legislating a process which would result in arbitering policies or grievances in the public sector. By establishing specific federally mandated substantive rights, the proposed legislation goes much further than simply creating a process. But, as substantial as a federally mandated parental and medical leave policy would be, it is but one component of the public employer/employee relationship. In this regard, we believe that the bill creates a powerful precedent for the Congress to be urged to legislate in other aspects of the employment relationship -- and thereby further impact on the integral operations of state and local government.

Further, we do not believe that school employees themselves would uniformally support this legislation if they were fully aware of how the costs would preclude other compensation items from being considered at the bargaining table, how workloads would be altered in those very areas in which school officials currently exercise discretion to deny, or how the education of children would be negatively impacted.

VI) CONCLUSION

The policy leaders of this nation, especially the members of this Committee, have supported a greater commitment to the education of our youth. To that end, school districts have adopted policies which accommodate family needs of and provide job security to school employees in a manner which is in operational and financial balance with the educational needs of the 25 students in each classroom -- as well as the priorities of employees at the bargaining table. By increasing the number of opportunities that employees will have to freely move in and out of the classroom during the school year, S. 249 concomitantly multiplies the loss of classroom continuity and the ability of school officals to find competent substitutes from the available pool in any given marketplace. This act of reaching beyond current school district discretion in policymaking undermines current efforts to improve time on task, and to improve the teaching standard that takes place in the classroom. When the quality of education in the classroom is diminished, whether first graders or high school English students, school children will lose an educational opportunity that cannot be recaptured.

Senator DODD. Thank you very much, Mr. Howe. Mr. Matz.

Mr. MATZ. Thank you, Senator Dodd. I am here today representing what by all measures is a fairly large company with locations that are both small and large throughout many of the States in the United States, and we have recently enacted in June of this year a family-care leave of absence policy. And the nature of what I would like to talk about very briefly is just to describe our policy and report a little bit on the thinking that went behind coming up with such a policy for a company such as ours.

Essentially, our family-care leave of absence policy provides up to six months unpaid leave for situations that would involve the care of a newborn or newly adopted child, the seriously ill dependent child or a serious illness of a parent, spouse, or dependent relative.

During this six-month period of time, although compensation would not be forthcoming, we would maintain medical, dental, and life insurance benefits for the employee, and if they came back within a six-month period of time, there would be no break in service for that time, all of which counts toward other benefits that our benefit package provides.

Why did we do it? Well, frankly, as an 18-year veteran of this company, I will say with some pride that the initiative for this policy as well as several others that helped, I believe, to relieve our employees of some of the concerns that are off the job site—the initial initiative is, frankly, that it is just the right thing to do.

In the realm of what is in it for us, the comment that I would make that strikes me as most appropriate is that in the competitive environment in which we operate throughout the United States, it is absolutely imperative, if we are to succeed as a business entity and to prosper, that we have the opportunity to hire the people with the highest motivation, the people that can make the maximum contribution in the communities in which we operate.

In every location, and there are over 100 locations in which we operate, potential employees of this caliber certainly have the option of choosing their employer. It is our belief that if we represent ourself through policies such as this and other items such as perhaps child care centers, which we are beginning a fledgling effort on, a really effective employee assistance program, and items like this that help reduce the potential stress and anxiety of our employees, that we will in fact be the employer of choice in the communities in which we operate.

A second and correlative reason to that is, quite frankly, if we are successful in hiring individuals of this caliber and they work for Champion, we would certainly like to relieve them of the necessity to be considering what other employer they might have to go to work for when they are able once again to return to the employment market. We would, in fact, for non-altruistic and in fact rather selfish motives, like to insure that they don't think about that, that they know that Champion has a job for them when they come back, and that we in fact want them to come back into our employ. So those, I believe, are our motivations, Senator Dodd.

Senator DODD. Thank you very much, and I appreciate you being down. I appreciate all of you being here. Let me just raise a few points, if I can, and questions.

John Motley—we have got a lot of Jonathans here, three Jonathans. Am I correct, under our legislation, about 80 percent of your membership would be excluded?

Mr. MOTLEY. I believe it is more like somewhere around 75. The numbers are fairly close.

Senator DODD. But 75 or 80 would not be affected by this legislation at all. In your testimony, you didn't mention it, but Japan also has parental leave—and arguably, Japan is our chief competitor. I mean, people talked about the West Germans and others, but if we talk about our major competitor, you start a conversation and say, "Who is our major economic competitor in the world today?" most people would say Japan, wouldn't you agree?

Mr. MOTLEY. I would agree with that. But some people may mention West Germany.

Senator DODD. Yes. Are you familiar with Japan's parental-leave policy?

Mr. MOTLEY. Yes, I am, but I think the societal basis of Japan is extremely different either from Western Europe or the United States. In Japan, you go to a job for a company for life. They take care of you. It is a very different attitude towards the way people do business in Japan than either Europe or here.

Senator DODD. Aren't we adopting a lot of their practices. Hasn't the latest trend been to sort of find out what they are doing inside these plants and try to adopt a lot of Japanese techniques of employer-employee relations?

Mr. MOTLEY. There is certainly some of that going on.

Senator DODD. I mean, they have what, 12 to 14 weeks of paid leave in Japan. I am not adopting and advocating that, by the way, but I just think it is important, because the argument has come up of the competitive edge here—and there are differences, obviously. I would agree with you.

Mr. MOTLEY. Senator, our comparison was with Western Europe rather than with Japan. There are obvious reasons—because we think there are more similarities in the societies between Western Europe and the United States.

I would simply call your attention to page 12 of my testimony, in which we go through and give our opinion of what has been happening in Western Europe. And I would also point out that the charts and statistics that that opinion is based upon are attached to the testimony, and I would be very interested to see the statistical information that Ms. Williams can supply the Committee and have it compared with the statistical information that we have supplied.

We definitely think that there is a distinct difference in the performance between the United States and Western Europe, and there have been some recent articles in the New York Times and the Wall Street Journal as to why European economists are concerned about that. And one of the reasons that always comes out—only one, but one of the reasons—is the rigidities that have been built into the labor-management relationship in most of those economies.

And we are concerned—certainly not parental-leave legislation by itself is going to do that. But you know as well as I do that there are a number of other bills on the docket which take the same tack in terms of making it a labor standard. We are concerned about that.

Senator DODD. I would think—I hope there is no doubt about it. I mean, I don't disagree with your general conclusion. But it seems to me we are dealing with a situation here that is very different, as you heard me say earlier. I don't want to be repetitive but you made the point that with two kids who are teenagers, right now dental issues are particularly important to you. Others will find other issues that are part of the benefit package, are important.

I have tried to at least make clear that I thought we were talking about something that was fundamentally different than the choice between dental insurance or child care, for instance.

You talk of Champion, you are beginning to work on child-care programs there. I am not sure you want to come up and mandate child-care programs. I think the Federal Government can play a constructive role, through State and local governments, providing assistance so that there are facilities available for people, in the communities where they work, where they can place their children with some degree of security. So I wouldn't put that same issue in the same category as this one here, where you are talking about birth, adoption, and the really ill child.

It seems to me that at that point you are talking about something that goes beyond the question of choosing from a cafeteria menu of benefits. Do you see any of that at all, John, or am I just missing—why am I wrong in that?

Mr. MOTLEY. Well, I think you have done a great deal of thinking, and obviously you have done a great deal of traveling throughout the country talking about it. It is a problem that you have seen and are concerned with, and you have been able to make that distinction in your own mind.

I think if you were to go out and walk down Main Street, though, and pick a town in Connecticut, and start to talk to employers, you would have to talk to them a long time, I think, before you were able to make them see the same distinction.

Senator DODD. Yes.

Mr. MOTLEY. They don't see exactly what you are trying to do, and then when somebody comes along and says, "Well, look at these other things that are being suggested also," then they really become frightened.

So it may be that they are closer, because if you look again at our membership, the number of members that are providing these types of fringe benefits, whether it be paid leave or leave with benefits or health insurance, is growing every year. And our assumption is that as they become profitable, stable, and they try to compete with the Champions for good employees, that they are forced to do that.

But there are always marginal small businesses in the economy—whether it is due to economic conditions in Texas and Louisiana, or whether it is due to the fact that they are new and are not established yet, or the fact that they are just having hard times because of poor management—there are marginal firms who are not going to provide those types of fringe benefits.

And I wonder if we are simply trying to legislate for that marginal group, and I am concerned that if we are trying to legislate for that marginal group that we might actually—not necessarily in the parental-leave area, but in some of the others—we might actually be doing damage, because those are the firms which are hiring what we tend to call marginal employees—the very young, first jobs, part-time, second-wage earners, those people who may not necessarily be able to get a job with Champion.

Senator DODD. Mr. Howe, you left me a little bit confused. In your testimony, you say that virtually every school district has or should offer parental leave. And then you also talk about many districts that have it. And then you also suggest that it is so disruptive.

Mr. HOWE. What they do, Senator—and this is where we object to the bill—is that in those districts, which most districts do have a parental leave policy, that policy is designed in a way that it minimizes any kind of disruption to the classroom.

As I suggested, that a return from a leave would not be allowed until the beginning of the next semester or perhaps even not until the next beginning of the school term, depending upon when it is taken. There are certain parameters within which the parental leave must be requested, how it is handled, how it is administered, so that it minimizes the disruption in the classroom.

Senator DODD. Well, and obvious question. I mean, you could ask the question yourself. Unfortunately, children don't get sick just in July and August. Babies just don't get born in July and August. Adoption agencies don't work it out so you manage to get the child just in July and August.

Mr. HOWE. Well, I think Senator, as to the medical-leave type of situation, you are dealing with a different type of problem than you are with the parental leave. In medical-leave situations, again, school policies are very clear as to how that is handled. In most situations, it is the result of a collective-bargaining agreement, and that collective-bargaining agreement worked out between the teacher union and by the Board of Education would address those issues.

I don't think that there has been an overwhelming number of teachers or people who have been employed by school districts who are upset or concerned with the kinds of benefit programs that they have within the public schools in this country.

Senator DODD. How many States don't have collective-bargaining agreements with teachers.

Mr. HOWE. I think the percentage, Senator, is that roughly 65 percent of all school districts are organized.

Senator DODD. Well, there are 17 States that have no——

Mr. HOWE. That is correct, but that doesn't mean collective bargaining doesn't take place in those States. I come from the State of Illinois, and until about two or three years ago, we did not have a collective-bargaining statute. But certainly collective bargaining has been a large part of Illinois education for many, many years prior to the time of the passage of that statute.

Senator **Dodd**. Now, you have had parental-leave policies in almost all school districts? Correct me.

Mr. **Howe**. We have a survey, Senator, that is being tabulated now, which we will be happy to provide to you, which will outline the various procedures and what our survey has discovered.

Senator **Dodd**. So you are going to have that data coming back, and so forth, but you do have it.

Mr. **Howe**. Yes, sir.

Senator **Dodd**. Of course, you don't believe in collective bargaining, anyway, do you?

Mr. **Howe**. Quite the contrary, Senator. I think the question of collective bargaining is something that has to be determined in the State or within the local community. One of the concerns that we have with collective bargaining is, just as someone else testified to before, the adversarial aspect that so often comes about, which is disruptive to the whole process of public education.

No. I am not opposed to collective bargaining at all. I have been engaged for 18 years in my community as a member of my school district, and we have had collective bargaining with our union in that district the entire time I have been on my Board.

Senator **Dodd**. Well, maybe the October 21 edition of Education Week just has a bad title.

Mr. **Howe**. It say—I think you ought to read the article, Senator, and that might help you understand what we are talking about. That is our commission, which is made up of representatives from business, from labor, from the unions themselves, the teacher unions themselves, which addresses the issues of how collective bargaining overall has not been a real encouraging force for reform in education, and that where collective bargaining exist, we must work with it so that we can implement reform in education, which I think is the desire of everyone.

But I commend it to your reading, Senator. I appreciate your having the article, but I think that upon your examination, you will find that we are not against collective bargaining.

Senator **Dodd**. Well, just the title, "Seeking Alternatives——

Mr. **Howe**. I unfortunately didn't write the headline. I only wrote the article.

Senator **Dodd** [continuing]. "Seeking Alternatives" leads one to believe—one could draw that conclusion.

Both of our gentlemen on either end, the bookends here, of two businesses substantially different in size—you have got 250 employees; you have got about 31,000 if you take, I guess, the overseas employees.

What is the reaction in your Chamber—do you belong to your Chamber of Commerce at home?

Mr. **Thomashow**. We don't belong to the Chamber of Commerce in New York. The reason why we don't is, in fact, every time a social issue comes up in the New York State Legislature, somehow the Chamber of Commerce, both the local Brooklyn Chamber of Commerce and then the grand master of all, the New York City Chamber of Commerce that functions in the island of Manhattan, seem to come down on the wrong side of people.

And while we acknowledge—and we have had a couple of bad years back in the early 1980's where we lost money—that the prime responsibility of the corporation is to make a profit, it is also there to serve a social function. And what apparently is lacking, and I think this is the reason why this Committee and why others are advocating national solutions, is that time has come to stop waiting.

Time has come for my rank and file, if they worked in some other State, to be able to get the same thing as the people in New York get. It is not that New York is any more enlightened than the rest of the nation. It is the fact that through a lot of hard times, we have come up with a reasonable legislature, reasonable Governors, who have in fact led the way.

I think Governor Cuomo has been very good in the area of making sure the two sides, both the business side and the labor side, are heard, that the necessity of keeping businesses in New York is accomplished, and at the same time we provide for the people.

I think what is going to happen—and I think the Council on Economic Priorities, I think other groups like that are leading the way—if there has got to be a national dialogue on what the corporate sector's responsibilities are in giving forth to the employee, how we help the people that in fact make this country run, whatever their level of skill is—that we provide for them, that we reach them, especially the ones that are falling through the cracks, because they aren't organized, and they are in the States that are most intransigent in giving or legislating these kinds of programs.

I would like to add one other thing, and that is as a male father of two adopted children. I have to be a male father—a male parent of two adopted children.

Senator DODD. You sound like a Senator, a little redundant there.

Mr. THOMASHOW. Yes. I think in this day and age, when we are talking about the failings of education in America, we are talking about the failings of certain segments of our society.

To deny the male the opportunity to take time off to aid with the rearing of the children at home in those early years is a terrible, terrible mistake, because what that child can pick up from the parents being there when it is important, without a major cost to the private sector, is vital to where we are going to be, in fact, in the 21st century. It is where that child is going to go, what they are going to do with their lives, how they are going to structure their lives.

I think that segment is the thing that really attracts me, is that the male will be able to, is encouraged to spend some time at home, spend more time with their children, and the children—unless they have got the old violent parents, children can't lose from this. And the children are the future of this nation, and we had better get used to that idea, and we had better, instead of posturing ourselves, start talking about how we make it possible for the children to get the best, so that it can go forward, that they can go into the schools, they can be encouraged to seek the education that we all know they need.

Senator DODD. Well, thank you for that comment. I would want to say as well, Champion has been involved in this back in my own home State. But today some of the best efforts we have going on are in such cities like Bridgeport, Connecticut. There, the private sector has really, in the last four or five years—has really jumped in to be tremendously supportive of elementary and secondary education.

In the past, we saw private sector investment at the post-secondary and obviously the post-graduate level, where there was a direct benefit to be gleaned. But now, the corporate community, I sense, is recognizing with a great far greater frequency, with far more involvement, the importance of investing in young children and families. Younger CEO's and corporate presidents are far more sensitive to a lot of these issues, frankly, than was the case a generation or half a generation ago, and are weighing in heavily on a lot of these questions coming along.

So there are a lot of positive things happening out there across the country with the business community and social responsibility. We are seeing a lot more of it. I certainly have seen a lot more of it.

Mr. **Howe**. Senator——

Your being here—frankly, you are the one who asked to be here. You know, a lot of the people assume we go out and we drum up witnesses. We don't. It was—like this gentlemen here who asked to be here to talk about it. When people talk about the corporate community, frankly, I am going to send them your testimony, because there are awfully good people out there who understand the broader picture all the time.

I presume your business isn't doing badly, either.

Mr. **Thomashow**. No, not really. We have turned that bad slump.

Senator **Dodd**. You are not a brokerage firm, I hope?

Mr. **Thomashow**. No, no. I do some of the Champion products that are important.

Mr. **Howe**. Thank you. Senator, I would just like to, if I may—is that yes, we were delighted that business is providing tremendous more support to public education. We are not seeing the protest to real-estate taxes. We are seeing an enlightened self-interest taking place.

But one of the frightening statistics is one that we can not lose site of, is that of those children who entered class this past September, approximately 17 percent of them come from homes of unmarried parents, and an equal percentage come from homes where really they are children of children.

And we have another very serious problem in that regard that your bill obviously——

Senator **Dodd**. Fourteen percent of them are children of teenagers.

Mr. **Howe**. That is correct.

Senator **Dodd**. And that number—they themselves, by the time they are 18, that number may double. The number of that 3.6 million that started school this year may be parents. Thirty percent of them won't complete high school, the way things are going.

Mr. **Howe**. Or higher.

Senator **Dodd**. That's staggering. You have been all very patient and very kind to wait—yes, John, I'm sorry. You had a final comment, John?

Mr. MOTLEY. I just have one comment, and it is really about the GAO study, which I really haven't had the time to go over, and we haven't had a chance to look at yet.

I would simply make one comment, though, in looking at the beginning of it, in that I would have some concern about the methodology. To simply use 80 firms, 80 employers in this country of 5 million employers—I don't think that you could get many statisticians or economists to say that that is a statistically valid sample.

I know if NFIB were to bring out a study like that and argue for some point on the Senate Floor, it would pointed out very, very quickly, and it would be discounted.

I would like the opportunity to take a look at that study——

Senator DODD. Please do. I should ask all of you to do that. In fact, I apologize for not raising that, and I should point out to you, Mr. Howe, as well, that the Senate bill doesn't include elderly care.

Mr. HOWE. We are aware of that, Senator, and the House bill does, but we know there has been some discussion in the Senate as to a possibility of including it, so we wanted to address that also.

Senator DODD. No. It is not going to be included, but I would like to get your comments, if we could, on the GAO study as well. I appreciate your comments on it.

Thank you all very much.

We get to our last panel, the most patient panel, this is Community Organizations. Jane Delgado is with the National Coalition of Hispanic Health and Human Service Organizations. She is the President of the Coalition, an organization that was founded 13 years ago to focus on public health issues. Her organization represents individual professionals as well as other groups.

Dr. Patricia Kelley is with the Iowa Association for Marriage and Family Therapy.

Let me suspend for a minute here and give people a chance to mill around.

Dr. Kelley is the President of the Iowa Association for Marriage and Family Therapy. She is also representing the National Association of Social Workers and the American Association of Marriage and Family Therapists.

In her spare time, she acts as Associate Professor at the School of Social Work at the University of Iowa. I am delighted to have you with us.

Helen McDonald is with the American Association of Retired Persons. She is a member of the Board of Directors of AARP, representing 23 million older Americans. She is from White Horse Beach in Massachusetts. Where is White Horse Beach? I thought I knew every beach in New England.

Ms. MCDONALD. White Horse Beach is part of the town of Plymouth.

Senator DODD. Oh, all right.

Ms. MCDONALD. Everybody knows, America's home town.

Senator DODD. Emily Schrag is the Associate Director for the National Center for Clinical Infant Programs here in Washington. It is a non-profit organization concerned with promoting the healthy development of children and families in the earliest years of life. The Center focuses on research, practice, and public policy, and we are delighted that you are here with us as well this morning, Emily.

And Dr. Heidi Hartmann is with the Institute for Women's Policy Research here in Washington. She is the Director of the Institute. It is a think-tank focusing on women's issues. She is here with us today to represent the findings of a study of the cost to workers and society of not having parental leave. Given that the GAO has focused on the cost to business, we look forward to hearing about the Institute study, and actually would complement it. And we probably should have had you on along with the GAO this morning.

Dr. **Hartmann**. We thought so.

Senator **Dodd**. Yes. Well, I am sure I felt a poke at my back here when I did that, from the staff.

Anyway, we thank all of you for being with us this morning. I presume you have listened to the way we have proceeded in the past, so if you would proceed in the order in which I have introduced you, any prepared statements you have, of course, will be a part of the record. And to the extent you can abbreviate them, it would be helpful. We look forward to hearing you.

Dr. Delgado.

STATEMENT OF DR. JANE DELGADO, NATIONAL COALITION OF HISPANIC HEALTH AND HUMAN SERVICE ORGANIZATIONS, WASHINGTON, DC; DR. PATRICIA KELLEY, IOWA ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY, IOWA CITY, IA; HELEN McDONALD, AMERICAN ASSOCIATION OF RETIRED PERSONS, WASHINGTON, DC; EMILY SCHRAG, NATIONAL CENTER FOR CLINICAL INFANT PROGRAMS, WASHINGTON, DC; AND DR. HEIDI HARTMANN, INSTITUTE FOR WOMEN'S POLICY RESEARCH, WASHINGTON, DC

Dr. **Delgado**. Since I do have a prepared statement, I will let go into that record, and I just want to talk a little bit about why we support this bill and why we think it is very important for us.

One of the issues that has come up—and I like going last, because then I get to listen to everyone—was the issue of child care as compared to this. This bill we support because it provides for care during critical periods of people's lives, and I think that is a very different issue than child care, and I would not want those to get confused as I heard them getting confused throughout the day.

Another issue which we want to bring up, since it is late in the day, is the idea of Federal legislation. Very often, for the Hispanic communities which our members serve, Federal legislation has been the way that the community has progressed. The States have often not been as responsive to Hispanic issues because of their historical relations to those communities.

On the broader sense, sometimes I can honestly say we don't support Federal legislation because Hispanics fall through the very holes in the net that those legislative pieces are supposed to create.

This one is different. This piece supports the family, and for us that is crucial. It is crucial because we as Hispanics live in a different world now. We live in a world where most of our families have two wage-earners that have to work. They have families where our traditional concept of someone staying home does not exist.

So something has to give, and what usually ends up happening is that families are torn in choice between economic survival and care of a child or health. And that is an unfair choice for society, as abstract, to make.

Some specific things you should know about Hispanics—and I have the data in more detail in my testimony—is that a significant percent of Hispanics have low-paying manual or service-sector positions. These provide few benefits.

We also know that a significant number of Hispanics are employed, but live in poverty. For these people in particular, the need for job security is vital. There is nothing else which can make a family feel more insecure and create more stress and all the problems that come with that—from alcoholism, drug abuse, to go on—than to not have any job security and not know what is going on with their life.

We also have a very high fertility rate, so for us, this kind of legislation is crucial. We need to acknowledge, even though you said you weren't going to include it, that we are also concerned about the extended family and the care of elder parents and things like that.

Senator **Dodd**. I want you to know that I am as well. I am trying to deal with one situation at a time, and I hope that people don't think that I don't believe so quickly. You try and do what you can do.

Dr. **Delgado**. You know, also, the thing which is crucial is this legislation is not a handout. It is something which will support the families out there. It gives people dignity. It tells them, "Go take care of your problems, and you can come back."

Those are the broad issues, as an organization that represents 507 organizations and individuals around the country who serve Hispanics. As a small employer, and I want to throw this in while I am here, I have had to deal—and I have 20 people, and I would have fallen under this piece of legislation.

It is difficult to have staff out. Yes, it costs money, but it is vital to have care–you have to show that you care for your staff, and if you don't have that, you are not going to have the loyalty and the productivity that we are always saying America needs.

My staff is underpaid and they work hard, but I think the reason they are there is because of things like this that we provide, and I think if we want to improve the whole picture for America, that this kind of bill is what we need. It is pro-family. The bill is good; it is good for our Hispanic communities, and it is also good for me as a business.

Thank you.

Senator **Dodd**. Thank you very much, Doctor.

Dr. Kelley.

Dr. **Kelley**. Yes. What I say will build upon previous testimony, because I see it as a pro-family bill.

As you said, I am President of the Iowa Association for Marriage and Family Therapy and an active member of the National Association of Social Workers and the American Association for Marriage and Family Therapy.

This is a pro-family bill which has been actively supported by both of those professional organizations, because people in both of these groups—and there is some overlap—work with families. And they see the struggle of many families to balance the demands of work and family life.

We see the effects of stress on the mental health of family members, on the development of children, and on productivity at the work site. Many of our members work in employee-assistance programs.

I teach family studies and family therapy at the University and I have worked with families as a therapist for 30 years. I have seen the family system change over the years, but our larger societal system hasn't taken into account many of these changes.

For example, women now comprise approximately 50 percent of the work-force, and for most of these women, it is an economic necessity. I see this in my practice. Only four out of ten have maternity leave, and that is usually six to eight weeks.

If these women can manage economically—and many can not—to take time off with no pay, we as a nation should encourage it. From a mental-health point of view, this can be considered primary prevention.

The parent-child bonding is important for the development of children. The rest and time with the child is important for the mother's mental and physical health, which also affects her work performance. And the family system is eased through a major transition.

I should add here that any change, even the birth of a very wanted child, produces stress on a family system, and time to accommodate to those changes alleviates that stress. Even the best changes produce stress, which takes time.

If a parent returns to work too soon, and that time varies by the family, the family unit suffers. The family unit suffers more, however, if a person loses a job for staying out too long. Child abuse occurs three times more often in families where there is unemployment. Those of us who work with families have seen very high-functioning families become broken by too much stress.

The stress is probably even greater for families with a seriously ill child. I can think of no greater stress on a family.

A family therapist at the University of Iowa College of Medicine Family Practice Division is on the board of our association. He has told me about the extreme stress on families that he has worked with where there are terminally ill children.

The rate of divorce for families who have had a child die is over 50 percent, which is much higher than the base rate—the national average. Furthermore, the siblings of those children have a much higher rate of learning and behavioral problems. That is, than the national average.

Parents are torn between being with an ill child, with each other, and with their children, and at their jobs. A recent study, which I could leave if requested, of families of children with malignancies found that these families have profound changes. There are more—as reported by the families themselves—more marital problems, child neglect of the siblings, and loss of interest in their job were common, a return to normal family life very rare.

A medical social worker told me that the presence of a parent is often an important factor in recovery and sometimes survival of seriously ill children.

She cited an example from her practice of a child with a head trauma, where the parents were told that they should stay with the child at least 12 hours a day for reality orientation, that this was necessary for functional recovery, to recoup the loss from brain damage. Another family had a 24-hour watch with a very ill child. They worked opposite shifts to do so and to maintain that.

Now, in our State and, I think, many other rural States, these arrangements aren't easy and can't be done by very many people. Their tertiary care is centralized in one or two places. People have to travel long distances to be with their children. Parents need this time away from work without fear of job loss to attend to seriously ill children.

I think the medical leave is also important for the adults. I understand that that is under some jeopardy here, but the workers at the lower end of the pay scale especially, when they have illness and the loss of a job on top of it, that can cross them over into poverty and even homeless families. So I think that is an important part to keep in.

In this country, we speak of commitment to families, but we have fallen behind the other industrialized nations, as you have pointed out, in providing the benefits to support family life. The passage of this bill will strengthen and preserve family life, and it makes economic sense to businesses, too. Workers under stress have a higher rate of absenteeism, sickness, industrial accidents, and a lower rate of productivity.

Other countries have passed similar legislation. Some States in this country have benefits. So it can work. I urge this to be brought out of Committee and passed in the Senate.

Thank you.

Senator DODD. Thank you very much, Doctor.

Ms. McDonald.

Ms. MCDONALD. Thank you, Mr. Chairman. I appreciate this opportunity to express the support of the American Association of Retired Persons for the Parental and Medical Leave Act of 1987. AARP, with more than 27 million members over the age of 50, is the nation's largest membership organization. AARP is vitally interested in family care-giving issues, as well as in protecting the jobs of persons who must temporarily leave work to care for their own illnesses.

Thank you.

Our members are not only receivers of family care, but are overwhelmingly the care-givers themselves. Care-giving is a family issue, but the care-giver is usually a woman. Increasingly, she is an older woman. Care-givers are all family members—children, grandchildren, spouses, and parents—are usually women, many of them in their 50s and 60s.

Many of these women are employed. Indeed, more than 62 percent of women age 45 to 54 work, a higher percentage than for women of all ages. More than half of AARP's 7 million working members are women.

AARP many working members with significant family-care responsibilities suffer real and substantial economic costs when they lose their jobs for this reason. In the short run, the lack of job protection for workers who must care for a family member is a financial hardship for the many families needing two incomes. Indeed, the Joint Economic Committee noted in reports issued in 1984 that most women work for reasons of financial security.

However, the long-term economic effects are even more devastating. Frequent breaks in employment to provide family care which result in job loss make it difficult for a woman of any age to earn or vest in adequate pension benefits and Social Security income.

This problem is compounded by the fact that mid-life women can face both sex and age discrimination when looking for a new job. Time out of the work-force to care for family members is one factor in the gloomy retirement income picture for many of today's older women. Only 20 percent of women over 65 receive private or public pension benefits, compared to 42 percent of men.

Of the very small number, 12 percent, receiving private pensions, the average monthly pension check for an older woman is only $221, half of that for an older man. Average total retirement income for a single woman over 65 is ⅔ that of a single man over 65, and only marginally above the poverty level.

Job loss is also a critical problem for those who must temporarily leave work to care for their own medical disability. Although mid-life and older workers do not have any greater average of bed-sick days annually than younger workers, temporary medical leave can too easily serve as a pretext for age discrimination and termination.

While the lack of job protection for family care-givers imposes great costs on employees, the benefits to employers of providing such job protection may very well outweigh any costs employers incur. Because this is unpaid leave, employees will probably seek to limit the number of days that they are out, thereby limiting the need for temporary workers and encouraging job-shifting. Not only does the employer retain an experienced and valued employee, an almost incalculable benefit, but the employer saves itself expensive recruiting, training, and acclimating a new employee. These are costs that employers often simply do not take into account when voicing opposition to this bill.

Businesses increasingly recognize that their employees must provide care for their own parents and spouses as well as their young children. The well-known Travelers Corporation study found that almost a third of the employees surveyed spent an average of more than ten hours a week caring for a relative or friend older than 55. Eight percent of them devote 35 hours a week to such care, the equivalent of a full-time job.

Research done in the 1970s indicated that 83 percent of women age 80 and older live with their children or within ten minutes of them. For men over 80, the figure was 66 percent. It must be expected that their children are their care-givers.

A recent report by the Older Women's League indicated that almost half the family care in the United States is spouse-to-spouse. AARP is one of a number of groups that has been working on this issue from varied perspectives. We have an array of resource books and pamphlets for care-givers. We have worked with community organizations and employers to develop workshops and related care-giver programs, and we are now developing training programs and information on home nursing skills and short-term respite care.

We view this bill as one of the most critical elements of any nation-wide effort to recognize the importance of care-givers to families and to protect the jobs of older workers.

For this reason, Senate 249 must be strengthened and made a true family-care bill. Rather than simply protect the jobs of parents caring for newborn children, the bill must be expanded to protect the jobs of those who care for any family member, including older parents, a spouse or a relative who may be living with the worker. Only in this way will it reflect the reality of family life today and the multiple roles and responsibilities of women, especially older women, in today's work-force.

AARP strongly supports the Family and Medical Leave Act as a necessary step in addressing both the critical day-care and dependent-care needs of this nation and the threat of job loss faced by people who are only temporarily unable to work because of illness.

Thank you.

Senator DODD. Thank you very much, Ms. McDonald. Emily, thank you for being so patient.

Ms. SCHRAG. Yes. Thank you for this opportunity. As you mentioned, the National Center for Clinical Infant Programs is concerned with children in the earliest years of life and their families. Our board members include Dr. T. Berry Brazelton, the President-Elect; Edward Zigler, who was mentioned before; Albert Solnit; Irving Harris; and about two dozen other leading authorities and experts in child development and related fields.

Other people, including you and Senator Hatch, have spoken more eloquently than I could about the importance of the earliest months and years of life in the development of a child and family. So what I wanted to do right is to talk about the importance of parental leave as a link to other services, first to child care, and second to the issue of the seriously ill or disabled child.

As you are probably aware, there has been a great deal of discussion in the past year among child-care researchers about the possible risks to children and their families of care initiated in the first year of life.

The National Center just last week convened a meeting of some 17 of the leading child-care researchers, including Jay Belsky, Alison Clarke-Stewart, Edward Zigler, Sally Provence, Albert Solnit, and many others, to talk about some of the key issues.

And this group agreed that there is no reason to believe that children and families shouldn't thrive if they have real choices and if they have access to a stable child-care environment featuring skilled, sensitive, and motivated care-givers.

They also agreed that parental leave is an essential link to this kind of child care, because what they thought was so important was the match between the particular child, the particular parent, and the care-giver or the child-care setting that is chosen.

That is not easy to achieve. It takes time. It takes time, first of all, for new parents to understand what their individual baby is like, to gain confidence enough in themselves as care-givers, as people who can choose, "I want this, not this. She clicks with me; she doesn't."

That takes time to establish, but once parents can have a sense of what their child needs, what they need, and if they are lucky, can find it—and that is another whole issue—that close collaboration can really be an essential force for the good development, the support of families over the next critical years.

I would also just like to spend some time about the issue of parents and their seriously ill or disabled children. I know you are very interested in some definition here, and I would be happy to poll our board members, are fellows, who are experts in childhood disability, neonatology, pediatrics, and so forth, and also parents from 15 States with whom we have worked closely over the past several years, to help you with this.

But today I just wanted to point out three roles that parents have when they are caring for children who are seriously ill or who are disabled, and to start off with one quote from our Surgeon General, C. Everett Koop, who has called for a national commitment to family-centered, community-based, coordinated care for all children with serious health problems, special health needs.

Let's look at some of the roles that parents have. First of all, parents are coordinators of care. The family is the constant in the child's care no matter how many professionals are involved. This takes time to achieve, time to arrange. Dealing with third-party payers can often be a full-time job for parents—coordinating the kinds of services that fragile children need when they come home, to help those children stay in the community and to thrive.

Secondly, parents participate in intervention itself. As you know, there was recently passed new legislation, the Education for the Handicapped Amendments of 1986, which offered States the opportunity to provide early-intervention services for children from birth through two and their families.

All 50 States are taking advantage of this opportunity, and these services are going to be based on individualized family-service plans. Parents are an integral part of developing these plans, and they are also an integral part of the early-intervention itself that can be such a very important investment in children's development, so that parental leave, the chance to take time to be involved in these programs, can be an incredibly important investment and a link to other programs.

And finally, parents are the ones who care for the whole child. Skilled professionals are more and more sensitive to the emotional needs of children, but it is still the parents who keep the child as a member of a family, a child in a family, rather than just a patient in care.

And it takes time, whether you are talking about parents learning to accept, to care for, and to love a seriously disabled infant, whether you are talking about parents trying to keep the autonomy and liveliness going in a two-year-old who suffered severe burns and is terrified, whether you are talking about parents helping an adolescent to die. All of that takes time, and it is important.

Many of us, I think, here at this table recognize that the benefits that would accrue to people from S. 249 are a beginning response to very complex needs of families. But you don't have to be an infant specialist to know that a first step is a very important developmental milestone, and I think we would all rejoice to see a child or the Senate take a first step.

Thank you.

[The prepared statement of Ms. Schrag follows:]

NATIONAL CENTER FOR CLINICAL INFANT PROGRAMS

Parental Leave

An Investment in Strong Families

Emily Schrag, M.S.W.
Associate Director
National Center for Clinical Infant Programs

Testimony presented to the Subcommittee
on Children, Families, Drugs and Alcoholism

U.S. Senate

Hearing on S. 249, The Parental and
Temporary Medical Leave Act of 1987

Washington, D.C., October 29, 1987

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Thank you, Senator Dodd and other members of the Subcommittee, for the opportunity to speak to you about the importance of parental leave for two groups of families: Those with very young infants and those whose children face serious illnesses and other health conditions. I would also like to emphasize parental leave as an important connecting link to other services for families. I speak as Associate Director of the National Center for Clinical Infant Programs, a non-profit organization concerned with promoting the healthy development of children and families in the earliest years of life through research, practice and public policy. Dr. T. Berry Brazelton is president-elect of the National Center; our Board of Directors includes former U.S. Surgeon General Julius Richmond, Sally Provence, Albert Solnit, Edward Zigler, Irving Harris and some two dozen other leaders in health, child development, and public administration.

First, let us look at parental leave as an investment in our country's very youngest children.

In the earliest months of life, infants need special kinds of care. While children require careful nurturing throughout their development, the formation of loving attachments in the earliest months and years of life creates an emotional "root system" for future growth and development. How are these attachments formed? Through the daily feeding, bathing, diapering, comforting and "baby talk" that are all communications of utmost importance in beginning to give the child the sense that life is ordered, expectable and benevolent. (Breastfeeding and the care of the young infant in the home environment also offer protection from infection as the baby's immune system develops). In short, these factors affect the baby's cognitive, emotional, social and physical development.

As any parent of more than one child knows, infants vary from birth (and probably earlier) in their temperaments and personalities. When a baby is cared for with sensitivity to his or her individual rhythms and needs, it is more likely that that individual child will develop well. Perfunctory care or neglect may result in intellectual, physical and emotional stunting.

As you are aware, there has been a good deal of discussion in both the professional literature and the general news media during the past year about possible risks to the development of infants in non-parental child care. On Friday, October 23, the National Center for Clinical Infant Programs convened a meeting of 17 leading infant day care researchers, including Kathryn Barnard, Jay Belsky, Alison Clarke-Stewart, Sally Provence and Edward Zigler. The group agreed that children of any age can thrive when parental care is supplemented by a consistent child care arrangement featuring skilled, motivated and sensitive caregivers. What parents need are options, genuine choices -- and access to affordable, adequate care.

The researchers saw parental leave as an essential support to new parents. Only with time can parents learn enough about their child's unique personality and needs and develop enough confidence in their own competence as parents to evaluate whether a particular caregiver or center will be the right "match" for their family - and it is this match, this supportive collaboration between parents and caregivers that, researchers agree, may be the key to optimal development for the very young children of working parents.

Second, let us look at parental leave as a support to families whose children face serious illnesses and other health conditions.

Senator Dodd, we understand that you are interested in the opinions of experts in child health and development as to what kinds of circumstances should be covered by the provisions of this act that enable a parent to take job-protected leave when a child is seriously ill. From the experience of the National Center for Clinical Infant Programs in working with parents from fifteen states whose children have special health care needs or disabilities, I will offer you today some issues to consider. If you wish, the National Center would be happy also to poll these parents and its Board and Fellows- who number among them experts in pediatrics, neonatal high-risk follow-up, childhood disability, chronic illness, and infant mental health- and report their comments to you.

Today it may be useful to think about roles of parents in caring for seriously ill children rather than about the health conditions of the children themselves. And in this connection I offer two comments for consideration: the first, from U.S. Surgeon General C. Everett Koop, who has called for a national commitment to provide family-centered, community based coordinated care for all children with special health care needs; the second, from a leading nursing researcher on childhood chronic illness, who told us, "Remember, parents do more than change dressings."

What are some of the unique roles of parents when their children have serious illnesses health conditions or disabilities?

1. Parents coordinate care. The family is the constant in the child's life, and it is parents who must make decisions about home care for fragile premature infants, about the array of tightly coordinated care providers needed by a technology-dependent child, about the lengthy series of treatments required by a child with cancer. Dealing with third party payors can itself become a full-time job for parents.

2. Parents participate in intervention itself. Early intervention with infants and toddlers who have disabilities or are at risk of developmental delay is a process that involves the whole family. Since the enactment of the Education for the Handicapped Act

Amendments of 1986, all fifty states have begun to plan for services to children from birth through two and their families. These interventions and supports will be coordinated through Individualized Family Service Plans. It is hoped that services will be structured as much as possible to accommodate the schedules of working parents, but flexibility at the workplace is also essential if very young children and their families are to be served appropriately and with maximum effectiveness.

3. Parents care for the whole child. Skilled, caring professionals can, and do provide both specific and more general kinds of care for seriously ill children, whether they are at home or in the hospital. But to ensure that the child remains a child in a family, not just a patient in care, we need to enable parents to learn to feed and hold a two-pound preemie, to help a toddler cope with pain and fear, to face death with an adolescent.

Conclusion

Parental leave is an investment in strong families. American parents are struggling to be both responsible workers and caring mothers and fathers. They are coping, often with multiple stresses, and they need support to do their jobs, which are essential to the current well-being and future development of this country.

As we look at the Parental and Temporary Medical Leave Act of 1987, most of us recognize that medical leave that includes coverage for conditions related to pregnancy and childbirth and unpaid parental leave for employees of relatively large enter- prises represents only the beginning of a response to a much larger challenge. But we don't have to be specialists in infancy to know what an important milestone a first step represents. And we all justifiably rejoice when a child - or a nation - takes such a crucial step forward.

Senator **Dodd**. Thank you very, very much. Dr. Hartmann, thank you as well for coming.

Dr. **Hartmann**. Senator Dodd, I would like to preface my remarks by saying that although we are last on the program, we are very pleased to be here today and to share with you the first provisional findings of a recently released study by the Institute for Women's Policy Research.

Next time you can put us on after the GAO.

With me here today is Dr. Roberta Spalter-Roth, a professor of women's studies and sociology at George Washington University, who had primary responsibility for this research and who is available to respond to questions.

I will attempt to summarize the full testimony, which we would like to submit for the record.

As you noted, the preponderance of the discussion surrounding S. 249 has concerned the projected costs to business, and especially to small business, of its requirements. Two major assumptions underlie much of the current discussion, that business or employers are the only group to bear the costs of family and medical leave, and that there are no costs to the current situation.

Because of the lack of a national family and medical leave policy, the current situation is one that is characterized by a haphazard set of vastly different business practices. The purpose of our testimony today is to broaden the discussion by showing that there are costs, very high costs, of the current haphazard situation, costs that are borne by working women, working men, their families, employers, and taxpayers, as well as society as a whole.

We also broaden the debate by showing that there are benefits to requiring parental leave. Our research shows that having maternity and/or parental leave will reduce unemployment and minimize wage loss for women when they return to work after childbirth, as the majority of women now do. The proposed legislation will also reduce the productivity lost to the economy.

Our research further shows that wage loss and productivity loss are likely to be reduced if workers who have been ill have the right to return to their jobs.

When a person leaves employment temporarily because of the arrival of a child, illness of a family member, or his or her own illness, there are economic costs for three groups—employers, parents and workers, taxpayers and society.

The employer obviously must replace the absent worker, either temporarily or permanently, or arrange for the work to be done in another way. These are costs whether or not there is a parental or medical leave requirement.

We believe that most of the costs to business that have been discussed as pertaining to parental and medical leave actually pertain to the unavoidable costs of having babies or being ill. It is only the potential additional cost to employers of replacing temporarily rather than permanently that is due to the requirements of this type of legislation.

And although there may be some costs associated with having a temporary rather than a permanent replacement for an absent worker, there are also likely to be some benefits, primarily in the form of productivity gains when the former worker returns and brings back to the job all her or his skills, accumulated experience, and institutional knowledge.

Parents and workers also bear obvious costs upon the arrival of a child or the illness of workers or family members. Most of these costs will not be addressed by the proposed legislation, but other costs that workers now bear, such as the increased length of time a returning worker is unemployed or the lower wage at which she or he is re-employed elsewhere when there is no right to return to a job, are addressed by the proposed legislation.

There are also costs to society. Because workers experience more unemployment and wage loss without parental and medical leave, productivity is lost to the economy. Even if the employer were to find an equally productive employee to replace an absent one, and so minimize her or his individual loss, society still loses productivity because the former trained and skilled workers will have to find new jobs.

They are often unemployed longer or employed at jobs below their capability, as our research shows. Thus, the employer's action in terminating an ill or pregnant worker can be viewed as creating a cost to be borne by all of us, the same way we all pay the price for one factory's pollution.

Our analysis is drawn from the Panel Study of Income Dynamics, a data base of information from nearly 7,000 families maintained by the University of Michigan. What do these data show?

Before the birth or adoption of a child, women who later had babies had earnings profiles very similar to women who did not. After the birth, their hours of work and hourly wage rate fall significantly, and their receipt of public-transfer income increases. Annual earnings losses for these women are substantial in the birth year, averaging $2,800 per woman, and even larger the year after the birth, when they almost doubled to $5,600. Over the three years included in our study, the average woman lost $13,300 in earning from having a baby.

The losses in earnings to all American women who had babies in 1985 total over $28 billion over the first three years of the baby's life.

We also compare women who had babies to men who had babies. While the differences between women and men are already substantial in the year before the birth or adoption, they grow afterward. Thus, as the result of having a baby, economic equity between the sexes declines, and women become increasingly burdened with unpaid work. This uneven exchange will go on to have negative consequences for women, even for their economic status in old age.

Data from the panel study also allows us to compare women who have some form of leave, besides vacation, to have a baby with women who have no leave. Women who had babies but who had no leave show greater earnings losses and experienced more unemployment, particularly in the year after the birth, no doubt reflecting the need for job search.

Each woman without leave lost $457 more over the two years subsequent to the birth than those with leave. Across all women without leave, this loss amounts to nearly $255 million.

We emphasize that although women and their families bore these costs personally, employers and society also suffered from the additional productivity lost because these particular women had no leave.

Part of the financial cost of not having parental leave is borne by taxpayers. Women without any form of maternity or parental leave receive more transfer payments over the three-year period than those women who do have some leave. The estimated cost to society in transfer payments to women without leave who had or adopted a baby in 1985 is near $108 million.

We have also used these data to estimate costs to American workers and taxpayers of illness. We are able to compare workers with more than 50 hours off the job to illness in a single year to those who experience less or no illness.

We find that not only do they have large initial losses in wages and hours worked during the year of the illness, but these losses increase in each of the next two years after the illness. Unemployment and time out of the labor force also increase.

Over three years, the cost of illness in lost wages alone was $100 billion to these workers. These dollars also represent the loss to national productivity that occurs because trained and experienced workers are not at work.

Furthermore, women and men who had absences for illness experience more than ten times the unemployment of those who did not have such absences. These workers are looking for work and unable to find it, and their skills and abilities are going unused. Workers who are ill and then unemployed often require public income assistance. We estimate that the cost of illness in one year to American taxpayers over the next three years was nearly $8 billion.

Historically, the most common practice regarding childbirth has been for employers to terminate a woman's paid employment and to let her bear the cost of subsequent unemployment and of finding a new job.

The proposed bill requires employers to compensate workers for some of their current costs of illness and parenting by maintaining their health insurance if they carry it and by holding their jobs for them. Because when jobs are not held for former workers, society pays through lost income and lost productivity, one effect of the bill's requirements is to insure that employers will not create additional economic costs to society by terminating ill or pregnant workers.

What is at issue in S. 249 is whether it is reasonable, as matter of public policy, to require employers to compensate workers for some of their costs and to refrain from creating new costs. We judge that it is reasonable for at least three reasons. First, many employers already find it economically beneficial to do so, as we have heard this morning. Many other employers will also find it beneficial if they are encouraged to try it. Second, as the GAO reported today, there is not much reason to believe that requiring employers to replace workers temporarily rather than permanently adds to their costs. In fact, if requiring them to return former experienced or trained workers to the job improves the firm's productivity in the long run, as seems likely, then the bill reduces rather than increases employer costs.

Third, by terminating the former employee, the employer creates a substantial external cost which now falls on society at large. The longer period of unemployment and lower wages that we have shown in our research of returning workers experienced when they do not have leave is an additional social cost of lost productivity on top of that which already exists because of illness or child-bearing.

For these reasons, we believe there is a public purpose, enhancing productivity, that is well-served by requiring employers to provide unpaid leave for illness and child-bearing and to provide returning workers with their former jobs.

I would like to conclude by saying that in this era of difficult economic growth for the United States and in an era when we will be aging as a population, the retention of skilled workers is extremely important.

We cannot afford capriciously to lose the skills, training and the knowledge of experienced workers because they lack the right to return to their jobs after illness or child-bearing.

The proposed Family Medical Leave Act is also important because it acknowledges that workers of both genders are both care givers and workers and that they cannot and must not be forced to choose between these two life sustaining activities.

Finally, S. 249 is important because it can be one small step in reducing inequity between the sexes. As we have shown, it is women who do the primary work of caring for new born babies and of caring for ill family members.

By mandating leave for men as well as women, S. 249 encourages men to take on some of the personal costs of raising the next generation, and by mandating a right to their former jobs, the bill insures that the losses women experience when they return to work will be substantially reduced.

Women's long term earnings capacities will be improved with positive benefits for their income after retirement as well as during their active work lives.

Thank you.

[The prepared statement of Dr. Hartmann follows:]

INSTITUTE FOR WOMEN'S POLICY RESEARCH

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COSTS TO WOMEN AND THEIR FAMILIES
OF
CHILDBIRTH AND LACK OF PARENTAL LEAVE

Testimony
Relevant to S. 249
Parental and Medical Leave Act
October 29, 1987

Before the
Subcommittee on Children, Families, Drugs
and Alcoholism
Committee on Labor and Human Resources
United States Senate

by

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INSTITUTE FOR WOMEN'S POLICY RESEARCH

COSTS TO WOMEN AND THEIR FAMILIES
OF
CHILDBIRTH AND LACK OF PARENTAL LEAVE

I am pleased to testify today about the costs to women and their families of childbirth and of the lack of parental leave. I will present today the first findings to be released from a recent study conducted by the Institute for Women's Policy Research. The Institute for Women's Policy Research is a recently established, non-profit think tank that focuses on issues of special concern to women. I am the Institute's Director and I am an economist specializing in women's employment. With me is Dr. Roberta Spalter-Roth, a Professor of Women's Studies and Sociology at George Washington University, who had primary responsiblity for this research and who is available to respond to questions.

We believe the terms and criteria used to evaluate S. 249 have become narrow and one sided. The preponderance of the discussion has concerned the projected costs to business and especially to small business of the requirements of the bill. Two major assumptions underlie much of the current discussion: (1) that business or employers are the only group that bear the costs of family and medical leave; and (2) that there are no costs to the current situation. Because of the lack of a coherent national family and medical leave policy, the current situation is characterized by a haphazard set of vastly different business practices.

The purpose of our testimony today is to show that there are costs, very high costs, of the current hapahazard situation--costs borne by working women, working men, their families, employers, taxpayers, and society as a whole. **Our research shows that having the right to return to their jobs will reduce unemployment and minimize wage loss for women when they return to work after childbirth.** Further the proposed legislation will not only reduce the costs to women and their families of having children, it will also reduce the productivity lost to the economy. Our research also shows that wage loss and productivity loss will be reduced if ill workers have the right to return to their jobs.

CONCEPTS AND METHOD

When a person leaves employment temporarily because of the arrival of a child, illness of a family member, or his or her own illness, there are economic costs for three groups: the employer, parents and workers, and society.

EMPLOYER COSTS

First, the employer must replace the worker either temporarily or permanently, or arrange for the work to be done in another way. Although recruiting, hiring and training a new replacement worker costs something, these are costs whether or not there is a parental or medical leave requirement. **We contend that most of the costs to business that have been discussed as pertaining to parental and medical leave actually pertain to the unavoidable costs of having babies or being ill.** Given that women will continue to have babies and that workers will continue to get ill, employers must deal with their absence from work. Only the potential *additional* cost to employers of replacing temporarily rather than permanently is due to the requirements of leave legislation. Since many employers do not replace missing workers, but cover for them in other ways, this potential cost may often not materialize. When it does, temporary replacements *may* involve additional costs because temporary workers may be less productive than permanent replacements and because there may be some administrative costs involved in letting temporary workers go and taking back former workers. Hiring a temporary, rather than a permanent replacement might be *less* costly, however, as suggested by the rapidly growing temporary help industry. Employers probably also save by replacing temporarily, because, when their former workers return, their productivity is likely to be higher than that of any replacement.

It is worth noting that many employers already provide sick leave, for both sick and pregnant workers, and guarantee them the right to return to their former jobs (or similar jobs). Obviously, there are economic benefits from taking back former workers, such as reduced turnover, and productivity gains from the skills, experience, and institutional knowledge these workers have accumulated.

PARENT AND WORKER COSTS

Second, there are costs to parents and workers of the arrival of a child or of illness of workers or family members. Some, such as the medical costs of birth (or illness) and wage loss are not addressed by proposed legislation (though the cost of health insurance is). Other costs which workers now bear, such as the increased length of time a returning worker is unemployed or the lower wage at which she or he is reemployed elsewhere, when there is no right to return to a job, are addressed by the proposed legislation.

SOCIETAL COSTS

Third, there are costs to society. Because workers experience more unemployment and wage loss without parental and medical leave, productivity is lost to the economy. Even if the employer were to find an equally productive employee to replace an absent one, and so minimize her or his individual loss, society still loses productivity because the former trained and skilled workers will have to find new jobs. They are often unemployed longer or employed at jobs below their capability. Thus the employer's action in terminating an ill or pregnant worker can be viewed as creating a cost to be borne by all of us, the same way we all pay the price for one factory's pollution.

The economic costs to women and their families, employers, and society are identified in Table 1.

Our analysis is drawn from the Institute for Social Research at the University of Michigan's Panel Study of Income Dynamics. The nearly 7,000 families in the study are interviewed each year about their labor force participation, employment and unemployment status, hours on and off the job, earnings, and other sources of income including public transfer programs, as well as family size and other demographic information. In 1984-respondents were asked questions about their employee benefits including a question about whether, if the person had a baby, she (or he) would get any leave beyond vacation time.

To evaluate the costs of parenting, we compared women under 41 with a serious attachment to the workforce who had (or adopted) a baby with those who did not. We were also able to compare, for women who had (or adopted) babies, those who reported that they had some form of leave with those who had no such leave. We also compared women who had babies to men who had babies.

To evaluate the costs of illness, we compared workers (both women and men) under age 55 with a serious attachment to the workforce who experienced illness that required 50 or more hours absence from work with those who did not experience such illness. (Fifty hours is slightly above the average hours of work absence from illness in this sample.) All comparisons were carried out for a three or four year period.

For example, if the differences show that women who had a baby are significantly worse off during the years following a birth or adoption, compared to the year prior to the birth, when compared to women who did not have babies, the differences are interpreted as the costs to the women of having (or adopting) a baby. We looked at several indicators to explore what "worse off" might mean, including annual work hours, unemployment hours, housework hours, out-of-labor force hours, hourly wage, annual earnings, and income from public transfer programs. To provide estimates for all women or workers in the United States we assumed the experience of all workers was similar to those in the PSID sample, since the sample is representative of the U.S. population.

FINDINGS

Some of the costs we estimate, such as differences in annual earnings, are borne and felt primarily by individual women and their families. Others, such as the differences in the money value of income from public transfer programs, even when calculated on an individual basis, are financial costs to taxpayers. Still others, such as hours of unemployment, while experienced as individual suffering, are also costs to employers and costs to society of the lost productivity of trained workers.

HAVING A BABY

What do the data show? Before the birth, women who had babies had earnings profiles very similar to women who didn't. After the birth, their hours of work and hourly wage rate fall significantly, and their receipt of public transfer income increases. Annual earnings losses for these women are substantial in the birth year averaging $2858 per month, and even larger the year after the birth when they almost doubled to $5620 (losses are less in the birth year, because the birth may have occurred at any time during the year; many women will have worked at their former hours and wages most of the birth year). The second year after the birth, women's earnings recover somewhat, but they are still substantially below the pre-birth earnings. The earnings losses continue beyond the second year, though we were unable to estimate those future losses. As Chart 1 shows, summed over the first three years, then, **the losses in earnings to American working women who had babies in 1985 total over 28 billion dollars.**

Chart 2 compares women who had babies to men who had babies (or more biologically, though not socially correct, whose wives had babies). We have chosen two indicators, hourly wages and hours of housework (which here do not include hours spent on childcare) to illustrate that women bear a disproportional share of the costs of having children. While the differences between women and men are substantial in the year before the birth, they are greatly magnified subsequent to a birth (or adoption). By two years after the birth, women's wages relative to men's have declined by 60 percent (in constant dollars) and their housework hours have increased 22 percent. Thus, as a result of having a baby, economic equity between the sexes declines, and women become increasingly burdened with unpaid work. Other researchers have shown that this uneven exchange will go on to have negative consequences for women's lifetime earnings and even for their retirement income and economic status in old age.

EFFECTS OF PARENTAL LEAVE

Data from the 1984 interview of the Panel Study on Income Dynamics, as shown in Table 2, indicate that more than seven out of ten employed women report having some form of leave besides vacation leave to have a baby, and about one out of three report that this leave is paid. (It is not clear whether this is sick leave, disability leave, additional parental leave, or some combination.)

As shown in Chart 3A, women who had babies, but who had no leave, show a net relative earnings loss of 76 cents per hour in the birth year, followed by smaller losses in subsequent years. Women without leave also experience more unemployment, particularly in the year after the birth (no doubt reflecting the need for job search), and more hidden unemployment (hours out of the labor force). When their hours and wage experiences are combined, **each woman without leave lost $457 more over the two years subsequent to the birth than those with leave.** Across all

women without leave, this loss amounts to nearly 255 million dollars. We emphasize that although women and their families bore these costs personally, employers and society also suffered from the additional productivity lost because these women had no leave.

Part of the financial cost of not having parental leave is borne by taxpayers. As shown in Chart 3B, women without any form of maternity or parental leave receive more transfer payments over the three-year period (birth year plus two subsequent years) than those women who do have some leave. **The estimated cost to society, in transfer payments to women without leave who had or adopted a baby in 1985 is nearly 108 million dollars.**

COSTS OF ILLNESS

Thus far we have examined the costs of childbirth. Now let us turn to the costs of illness. As with childbirth, we will look at the costs of the current situation, comparing workers who do and do not have leave.

The data in Table 3 show that in survey year 1984, workers in the PSID sample under age 55 were off the job due to illness for an average of 4 days. In addition, the average worker is off the job for an extra work day as a result of someone else's illness. Clearly, U.S. workers do not, on the average, take very much sick leave regardless of its availability.

Even when workers are not seriously ill there are costs. As the length of illness increases so do the costs. To estimate these costs we compared employed women or men under age 55 who experienced 50 or more hours off the job due to illness to those who experienced less illness. The most striking finding shown in Chart 4 is that workers with more than 50 hours off the job due to illness in a single year not only have large initial losses in wages and hours worked, but these increase in each of the next two years. Unemployment and time out of the labor force also increase. Whereas women's earnings losses from child bearing and rearing seem to decline over time, losses from illness seem to increase.

The decline in wage rates may appear to be small at the individual level, but when generalized to the entire population of U.S. workers under age 55, (see Chart 5) we estimate the loss in income for the illness year at 13 billion dollars and the year following the illness at 27 billion dollars (in constant 1986 dollars). **Over 3 years, the cost of illness in lost earnings was 100 billion dollars.** These lost dollars represent the loss to productivity that occurs because trained and experienced workers are not at work.

That a large part of this lost productivity may be caused by workers' lack of rights to return to their jobs after an illness is suggested by the increased unemployment experienced by both women and men. Women and men who had absences due to illness experienced more than ten times the unemployment of those who did not have absences. These workers are looking for work and unable to find it, and their skills and abilities are going unused.

Clearly both employers and society as well as the individuals involved lose from their unemployment.

The estimated financial cost to tax payers is shown in Chart 6; the estimate is based on the additional transfer income from public programs received by workers who have experienced illness that caused them to be off work more than 50 hours. Again assuming the PSID sample is roughly representative of all workers, **we estimate that the cost of illness in one year to American taxpayers over the next three years was nearly 8 billion dollars.**

A NOTE ON COSTS TO EMPLOYERS

Historically, the most common practice regarding childbirth has been for employers to terminate a woman's paid employment and to let her bear the costs of subsequent unemployment and of finding a new job. The Pregnancy Discrimination Act of 1978 made such a policy illegal if firms provided medical or disability leave for male employees. Except where regulated by the states, an employer is free to provide no sick leave or temporary disability and to terminate pregnant or sick workers at will. Most workers do not choose to become ill, and while childbirth is often regarded as a personal choice, it too is a necessity if our society is to survive.

The proposed bill requires employers to compensate workers for some of their current costs of illness and parenting, by maintaining their health insurance (if they carry it) and by holding their jobs for them. This cost is a new financial cost to employers imposed by the bill, but it is not a new economic cost to society. Some parents and ill workers are paying their own insurance premiums now, and where insurance lapses, the cost of health care is nevertheless paid. And when jobs are not held for former workers, society pays through lost income and lost productivity. Taxpayers partially compensate workers for their losses through the public transfer system. One effect of the bill's requirements is to ensure that employers will not create additional economic costs by terminating ill or pregnant workers, thus adding to the inevitable costs of illness and child bearing.

What is at issue in S. 249 is whether it is reasonable as a matter of public policy to require employers to compensate workers for some of their costs and to refrain from creating new costs. We judge that it is reasonable for at least three reasons.

First, many employers provide some form of leave for illness, often including the right to return to a former job. With respect to parental leave, many employers are themselves aware of the benefits of providing it. According to the 1985 U.S. Chamber of Commerce Employee Benefits Survey, of the 50 percent of survey respondents who reported that their firms had some type of formal parental leave plan (most often integrated into sick and annual leave policies), 61 percent say they have it because it improves their ability to recruit and retain workers (only 11 percent said they have it because of union bargaining).

Thus many employers already find that these policies are economically sound for their individual businesses.

Second, when workers are ill or have babies they must be replaced either temporarily or permanently or covered for, as they are now. There is not much reason to believe that requiring employers to replace them temporarily rather than permanently adds to their costs. If requiring them to return former experienced or trained workers to the job improves the firm's productivity in the long run, as seems likely, then the bill reduces rather than increases their costs.

Third, even if an individual employer can make a productive permanent replacement, by terminating the former employee, the employer creates a substantial "external cost" which now falls on society at large. The longer period of unemployment and lower wages that we have shown returning workers experience when they do not have leave is an additional social cost of lost productivity (on top of that which already exists because of illness or child bearing).

For these reasons, we believe there is a public purpose--enhancing productivity--that is well served by requiring employers to provide unpaid leave for illness and child bearing and to provide returning workers with their former (or similar) jobs.

In addition to the public purpose of enhanced productivity is the public purpose of improved well being for employees and their families. Finally is the public purpose of decreasing unjustified inequities between women and men and between parents and non-parents.

In Chart 7, we estimate that if S. 249 is passed as written, an additional 35.7 percent of the U.S. workforce who are not now covered by state temporary disability leave policies or by voluntary disability leave plans developed by employers, and who work in firms with more than 15 employees, would be covered. In Chart 8, we show that only 2.4 percent of U.S. employees are affected by state laws that require parental leave. An unknown proportion of the rest are covered by voluntary employer policies. Consequently a very large number of workers would benefit directly from the proposed legislation.

CONCLUSION

S. 249 is a bill that will be good for American women, American families, and the American economy. It pays attention to the long-term productivity needs of our nation. It seeks to prevent and ameliorate lost productivity that is not necessarily measured or noted by employers, a productivity loss which is borne by society generally. Given our nation's long term economic problems and the anticipated shortage of workers, especially trained and experienced workers, that will befall us as this century comes to a close, these are losses that our nation can ill afford to sustain. We cannot afford capriciously to lose the skills, training, and the knowledge of experienced workers because they lack the right to return to their jobs after illness or child bearing.

The proposed Family and Medical Leave Act is also important because it acknowledges that women are committed workers as well as mothers or caregivers. It further acknowledges that workers of both genders are caregivers and that they cannot and must not be forced to choose between these two life-sustaining activities. We must find ways for American families to combine both activities.

Finally, S. 249 is important because it can be one small step in reducing inequity between the sexes. As we have shown, it is women who do the primary work of caring for new born babies and of caring for ill family members. Women not only do the extra housework involved in these activities, but also bear the brunt of the losses of annual income that such caretaking entails. By mandating leave for men as well as women, S. 249 encourages men to take on some of the personal costs of raising the next generation. And by mandating a right to their former jobs, the bill ensures that the losses women experience when they return to work will be substantially reduced. Women's long term earnings capacities will be improved, with positive benefits for their income after retirement as well as during their active work lives.

In sum it is our view that the Family and Medical Leave Act will distribute the costs of illness and child bearing more equitably and reasonably. It will also reduce the additional losses of child bearing and illness that now occur because of the absence of a coherent national policy.

CHART 1

ESTIMATED EARNINGS LOSSES, 1985-1987 TO EMPLOYED WOMEN WHO GAVE BIRTH OR ADOPTED A BABY IN 1985, COMPARED TO EMPLOYED WOMEN WHO DID NOT HAVE A BABY

	Earnings Loss Per Woman	Earnings Loss For All Women
Earnings Lost in Birth Year (1985 earnings less 1984 earnings)	$ - 2858	$ - 6,130,410,000
Earnings Lost in First Year After Birth (1986 earnings less 1984 earnings)	- 5620	- 12,054,900,000
Earnings Lost in Second Year After Birth (1987 earnings less 1984 earnings)	- 4831	- 10,364,495,000
Total over 3 Years	$ - 13,309	$ - 28,547,805,000

INTERPRETATION: Over the short run it costs American women $28 billion in earnings losses to have the next generation of workers and citizens.

Note: All dollar figures are in constant (1986) dollars.

Source: Institute for Women's Policy Research calculations based on special tabulations from the 1979-1984 waves of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan. Data from U.S. department of Commerce, Bureau of the Census, "Fertility in American Women: June 1985" (Table 4), as adjusted by IWPR, suggest that 2,145,000 employed women had births in 1985. Chart is based on data in Appendix Table 1.

CHART 2

COSTS OF HAVING A BABY: COMPARISON OF EMPLOYED WOMEN AND MEN WHO HAD A BABY

	(pre-birth year)	(birth year)	(birth year plus 1)	(birth year plus 2)
Difference in wage rate	$ -3.54	$ -4.22	$ -5.41	$ -5.67
Difference in annual housework hours*	514.0	712.0	715.0	628.0

*These are preliminary estimates that include all women who were employed for more than 600 hours in the pre-birth year and had a baby in the following year. Some of these women may have dropped out of the labor force subsequently. The final estimates will include only those women who remained employed after having had a baby.

Note: All dollar figure are in constant (1986) dollars.

Source: Institute for Women's Policy Research calculations based upon special tabulations from the 1979-1984 waves of the Panel Study on Income Dynamics, Institute for Social Research, University of Michigan. Chart is based on data in Appendix Table 2.

CHART 3A

ESTIMATED ADDITIONAL LOSSES OF NOT HAVING LEAVE TO EMPLOYED WOMEN WHO HAD BABIES

LOSSES TO WOMEN WITH LEAVE BEYOND VACATION WHO HAD BABIES COMPARED TO THOSE WITH NO LEAVE

	birth year	birth year plus 1	birth year plus 2
WAGE RATE			
Difference in wage rate per woman	$ -.76	$ -.25	$ -.17
HOURS LOST			
Difference in unemployment hours per woman	12.6	85.1	31.7
Difference in out-of-labor-force hours per woman	25.0	109.4	-15.7
Total Hours Lost	37.6	194.5	16.0
EARNINGS LOST			
Loss in annual earnings per woman without maternity or parental leave		$ - 218	$ - 239
Earnings loses for all women without maternity or parental leave		$ - 121,467,000	$ - 133,513,000
Total Earnings Lost to Employed U.S. Women Without Maternity or Parental Leave			$ - 254,980,000

INTERPRETATION: Employed women who gave birth in 1985 who did not have any maternity or parental leave lost over $170 million dollars in additional income in the two years following the birth or adoption of a child, compared to those women who had babies who did have maternity or parental leave.

Note: All dollar figures are in constant (1986) dollars.

Source: Institute for Women's Policy Research calculations based on special tabulations from the 1979-1984 waves of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan. PSID data and the U.S. Department of Commerce, Bureau of the Census, "Fertility of American Women: June 1985" (Table 4), as adjusted by IWPR, suggests that 557,700 women who gave birth in 1985 did not have maternity or parental leave. Chart based on data in Appendix Table 3.

CHART 3B

ESTIMATED FINANCIAL COST TO TAXPAYERS OF NOT HAVING MATERNITY OR PARENTAL LEAVE FOR EMPLOYED WOMEN WHO HAD BABIES

	Difference in transfer payments per woman without leave	Difference in transfer payments payments for all women without leave
Transfer Payments in Birth Year	$ - 80.75	$ - 45,034,000
Transfer Payments in First Year After Birth	237.48	132,443,000
Transfer Payments in Second Year After Birth	36.26	20,222,000
Total over 3 years	$ 192.99	$ 107,631,000

INTERPRETATION: Employed women who gave birth in 1985 who did not have any maternity or parental leave cost American taxpayers over $107,631,00 in additional transfer payments over three years compared to women who had no leave.

Note: All dollar figures are in constant (1986) dollars.

Source: Institute for Women's Policy Research calculations based on special tabulations from the 1979-1984 waves of the panel Study of Income Dynamics, Institute for Social Research, University of Michigan. PSID data and United States Department of Commerce, Bureau of the Census "Fertility of American Women: June 1985" (Table 4) adjusted by IWPR, suggest that 557,700 employed women who gave birth in 1985 did not have maternity or parental leave.

CHART 4

COSTS PER WORKER OF ILLNESS TO EMPLOYED MEN AND WOMEN UNDER AGE 55 WHO WERE OFF THE JOB FOR MORE THAN 50 HOURS COMPARED TO THOSE WHO WERE NOT

WAGE RATE	pre-illness year	illness year	illness year plus 1	illness year plus 2
Difference in wage rate for women	$ -0.26	$ 0.19	$ -0.39	$ -0.86
Difference in wage rate for men	$ -0.64	$ -0.37	$ -1.30	$ -1.72

HOURS LOST				
Difference in unemployment hours for women	5.2	-33.7	10.4	52.7
Difference in out of labor force hours for women	9.1	3.1	36.5	87.5
Total	14.3	-30.6	46.9	140.2
Difference in unemployment hours for men	4.1	-8.1	19.4	91.9
Difference in out of labor force hours for men	3.8	-2.6	76.6	125.4
Total	7.9	-10.7	96.0	217.3

Note: All dollar figures are in constant (1986) dollars.

Source: Institute for Women's Policy Research, based upon special runs from the 1979-1984 waves of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan.

CHART 5

ESTIMATED EARNINGS LOSSES TO EMPLOYEES DUE TO ILLNESS

(EMPLOYEES UNDER AGE 55 WHO WERE
OFF THE JOB FOR MORE THAN 50 HOURS)

	Earnings Loss Per Worker	Earnings Losses for All Workers
Earnings Lost in Year of Illness	$ - 646	$ - 13,479,374,000
Earnings Lost in First Year After Illness	- 1311	- 27,372,086,000
Earnings Lost in Second Year After Illness	- 2839	- 59,267,915,000
Total over 3 years	$ - 4796	$ - 100,119,348,000

INTERPRETATION: Workers under age 55 lost $100 billion in earnings over three years for above average illness in one year.

Note: All dollar figures are in constant (1986) dollars.

Source: Institute for Women's Policy Research calculations based on special tabulations from the 1979-1984 waves of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan. Based on the experience of the PSID sample, it is estimated that in 1985 20,875,643 U.S. workers were out of the labor force for more than 50 hours due to illness. Chart is based on Appendix Tables 4 & 5.

CHART 6

ESTIMATED FINANCIAL COST TO TAXPAYERS OF TRANSFER PAYMENTS TO ILL WORKERS

(EMPLOYEES UNDER 55 WHO WERE OFF THE
JOB FOR MORE THAN 50 HOURS)

	Transfer Payments Per Worker	Transfer Payments for All Workers
Transfer Payments in Year of Illness	$ 17	$ 354,886,000
Transfer Payments in First Year After Illness	$ 55	$ 1,262,988,000
Transfer Payments in Second Year After Illness	$ 288	$ 6,012,288,000
Total over 3 Years	$ 360	$ 7,630,172,000

INTERPRETATION: Ill Workers under age 55 who were off the job for more than 50 hours cost U.S. taxpayers $7.6 billion in transfer payments over three years.

Note: All dollar figures in constant (1986) dollars.

Source: Institute for Women's Policy Research calculations based on special tabulations from the 1979-1984 waves of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan. Based on the experience of the PSID sample, it is estimated that in 1985, 20,875,643 workers were off the for job more than 50 hours. Chart is based on Appendix Tables 4 & 5.

CHART 7

ESTIMATED PERCENTAGE OF U.S. EMPLOYEES AFFECTED BY FAMILY AND MEDICAL LEAVE ACT'S TEMPORARY DISABILITY COMPONENT

Employees not Affected by Proposed Legislation:

1. Employees of states with mandatory temporary disability.
2. Employees of firms with less than 15 employees.
3. Employees whose firms have voluntary temporary disability.

	Percent	Percent
All U.S. Employees		100.0
Less employees of states with mandatory temporary disability		- 23.0
Employees of states without mand. temporary disability		77.0
Less employees of firms with 15 or less employees	24.0	
(77% x 24% = 18.5%)		- 18.5
Employees of states without mand. temporary disability and working in firms of 15 or more employees		58.5
Less employees of firms with voluntary temporary disability	39.0	
(58.5% x 39%* = 22.8%)		- 22.8
Estimated percentage of employees with no temporary disability working in firms of 15 or more employees		35.7

*According to the Chamber of Commerce, "Employee Benefits, 1985," 39% of firms provide short-term disability leave to their employees.

CHART 8

STATES WITH MANDATORY PARENTAL LEAVE
Employee Population as Percent of
Total U.S. Employed

	All Employees	Employees Affected by State Laws	Employees Not Affected by State Laws
Minnesota	2,101,000 *	1,506,417	594,583.0
Oregon	1,210,000 **	837,320	372,680.0
Rhode Island	476,000 ***	259,896	216,104.0
Total	3,787,000	2,603,633	1,183,367
As a percentage of U.S. Labor Force	3.5 %	2.4 %	1.1 %

*Parental leave in Minnesota applies to firms with 21 or more employees.
**Parental leave in Oregon applies to firms with 25 or more employees.
***Parental leave in Rhode Island applies to firms with 50 or more employees.

TABLE 1

TRUE ECONOMIC COSTS OF BIRTHS AND PARENTAL LEAVE

	Having a Baby	Not Having Parental Leave (guaranteed right to return to job)	Having Parental Leave (guaranteed right to return to job)
To Parents:	Mother's time spent recovering from work and caring for baby* Father's time spent caring for baby	Mother's wage loss on return to work** Mother's time spent unemployed and out labor force when would prefer to work**	(Benefits: Mother's wage loss on return to work is reduced by parental leave) (Benefits: Mother's time spent unemployed and out of labor force is reduced by parental leave)
To Employers:	Mother's time away from job	Productivity lost from undesired turnover and loss of experienced worker	Productivity lost from having a temporary rather than permanent replacement (May be offset by productivity gains after return of former worker)
To Society:	Lost productivity of mother Health care resources used in pregnancy and childbirth	Additional lost productivity because mothers without leave experience lower wages and more unemployment when they return to work	Resources used to arrange for temporary replacements (e.g. temporary agencies) (May be offset by productivity gains after return of former worker)

*Transfers from employers in terms of sick leave, disability leave, etc., ameliorate the resulting income losses for some workers.

**Transfer payments (unemployment insurance, welfare, etc.) ameliorate these income losses for some workers.

TABLE 2

WOULD YOU GET ANY LEAVE (BESIDES REGULAR VACATION TIME) FROM YOUR JOB IF YOU HAD A BABY?

(To Nearest Percent)

	Yes	No	Don't Know
White Women (N = 1,421)	70.4	17.6	12.0
Black Women (N = 778)	79.8	14.1	6.2
White Men (N = 2,059)	36.5	42.9	20.6
Black Men (N = 852)	47.0	44.2	8.9

Note: Totals may not add up to 100% due to rounding.

IS THAT LEAVE PAID?

(To Nearest Percent)

	Yes	No	Don't Know
White Women (N = 1,421)	31.5	63.0	5.5
Black Women (N = 778)	36.4	57.9	5.8
White Men (N = 2,059)	21.1	77.4	1.5
Black Men (N = 852)	23.8	75.3	0.9

Note: Totals may not add up to 100% due to rounding.

Source: Special runs from the 1980 - 1984 waves of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan.

TABLE 3

WEEKS LOST DUE TO ILLNESS IN 1983
By Race and Gender

	Own Illness	Other's Illness
	Mean	Mean
White Women (N = 1,421)	0.71 (2.815)	0.23 (0.863)
Black Women (N = 778)	0.94 (2.907)	0.26 (0.972)
White Men (N = 2,059)	0.86 (2.815)	0.20 (1.370)
Black Men (N = 852)	1.64 (5.576)	0.11 (0.036)
TOTAL	0.82 (2.922)	0.21 (1.096)

Source: Special runs from the 1984 wave of the Panel Study of Income Dynamics, Institute for Social Research, University of Michigan.

Senator **Dodd**. What we might want you to do and ask you to participate in, Doctor, is get the GAO and maybe yourself to come up and meet with some of the Senate staff people of interested members to hear some of that data and go over it.

I feel like I am short changing you a bit because you have a lot of meat in there. I think there are some fascinating statistics, and I regret now in a way we didn't get that up in juxtaposition. It's only the cost of what this is, but as you point out, it is hundreds of millions of dollars that people lose.

Dr. **Hartmann**. That's right. In fact, I think there's a similarity between our figure of $254 additional million lost for women who do not have parental leave with the specific provisions in the law for parental leave alone.

Senator **Dodd**. Yes. That's excellent. So that's really helpful, and if that's all right, we'll call on you to do that. To have you come up or have your staff come up or however you'd like to do it.

Dr. **Hartmann**. Dr. Spalter-Roth and I will be very happy to do that.

Senator **Dodd**. Dr. Kelley, I don't know if you heard the witness, if you were here earlier this morning, in the first panel of families there was a woman who had adopted three special needs children, and one of the children that she adopted was a child that had serious medical problems, so serious that her natural parents could really not afford to keep her. I mean I can't image what it must be like to go through that.

Is that common?

Dr. **Kelley**. I don't know common, but that's something I've heard of and I've known of other situations. "Common" might be too strong a word, but it's not unheard of. I have heard of situations. I've seen it in Iowa where parents have to give up children that they can't raise. They have too many medical needs. Yes, I have seen that.

Senator **Dodd**. In the farm states, there's a tendency to think of women in the work force as being in a service oriented job or being in a manufacturing sector.

I don't think we traditionally think of women as being farmers. Obviously, farm economies don't survive without active participation of women. What do you run into in that kind of a situation? I don't think I've heard from anybody talking about the agricultural sector in what we've discussed here?

Dr. **Kelley**. Well, first of all, as I'm sure you're aware, agriculture is a big business in itself, but right now with the farm economy falling, the people that are getting jobs and low paying jobs are the women in those families, to keep the farm going.

They're working at minimum wage jobs, but many women have worked off the farms for years, but now it has increased especially at the lower end of the pay scale.

Senator **Dodd**. But it is really adversely affecting them.

Dr. **Kelley**. Right, and they do have to travel to be with their children when their children are sick.

Senator **Dodd**. Ms. Schrag, you answered a lot of this already in your statement, but I think it needs to be reiterated and if you would maybe just spend a minute or so and comment on it.

We're talking about parents and bonding. We talk about finding adequate child care and the difficulties of just the mechanics of that in the case of a birth or an adoption, using those two examples. We've had some testimony from professional experts people like Dr. Zigler, Dr. Brazelton and others. But maybe you might speak for a minute on behalf of the witnesses we don't have here today, namely: infants. I said in my opening statement that we have a lot of other people testifying here today but the people we're really talking about in most instances aren't old enough in some cases even to talk. They are, obviously, the children.

How is the infant benefitted? I mean, we know how the parents are and what it does for them but what do we know about what it means? Are there any kind of studies at all on children who have that, and others who don't? Just real empirical evidence that indicates the benefit of one and the absence of the other, the harm it causes?

Ms. SCHRAG. No. I mean I will be saying that there was two neuro studies on somebody who spent 16 weeks at home, was better off than somebody who didn't.

What we know from critical evidence, from lots of years of experiences that it's in those early months children and parents create what we like to think of as sort of an emotional root system for future development, healthy development, abilities to relate to people, to give and receive love, to learn, to succeed in school.

It's a complex delicate kind of thing. But I think one thing that's worth emphasizing is that many of us would like to sort of throw out the word "bonding," as common as it's become. It just suggests super glue, it happens or it doesn't.

We're talking about daily experiences repeated over and over time. You've seen Brazelton's films. You've seen him do the wonderful imitation. Now I'm doing an imitation of Dr. Brazelton doing an imitation of the baby up here and turning to the parent's voice.

Babies come into the world prepared to love and be loved. Some of them come into the world too early, and premature babies are hard to understand sometimes, their signals. But babies are ready to be cared for. But they need the reinforcement of the environment also. It's the daily experience of being cared for, comforted, bathed, touched, held, fed in a reassuring way that gives them the idea that the world is an okay place.

And as people have pointed out, many of the children who are adopted have not had that experience. They've had exactly the opposite, so it's an even greater challenge for parents who are adopting a child who has been through very painful experiences, to woo them back into the world. And this is the kind of thing that happens in the earliest months. And as I said, it takes time.

A lot of people who were on Dr. Zigler's panel, Dr. Gerome Keigen in particular, felt that the kids do okay if they get, you know, decent care. What the parental leave is important for is for the parent because it takes time to develop enough confidence in yourself as a parent to feel that you really matter to this kid. And I think that's an important issue for fathers particularly. We're talking about wanting to be sure that fathers have that real investment in their children that's going to last over time. And we know that half of them are going to be divorced, and we want to see them continue to support their kids and to be involved. We don't know yet how to stem the divorce rate, those early experiences.

This is my kid. I was able to calm him. He smiled at me. I took him in the car and the colic stopped for awhile. That's what's really important, and that happens in those first three months.

Senator **Dodd**. And you mentioned adoptive children. The benefit to them is more pointed, I gather you're saying, under an adoption situation than probably the birth situation, assuming normal birth.

Ms. **Schrag**. I don't know whether more, but I think we just can't lose sight of that, to expect a child at any age to come into a new home, a new situation, possibly a new culture, and then, you know, trot off to school or whatever, is unreasonable.

Senator **Dodd**. They're not expecting it in many cases, particularly with older children we're talking about, special needs children. They may not be expecting what you just described as the natural child at birth expects.

Ms. **Schrag**. Exactly. They may have been so damaged that it takes a long time for them to trust any adult.

Senator **Dodd**. I wondered, if we should have a standard of time that applies to the three very different kind of fact situations. Obviously illness, no one can put a time on that. I mean that's kind of silly. But with normal birth and special needs adoption, I'm beginning to think there may be more time needed with a special needs, adoption, and maybe less time needed in terms of the natural birth situation. And maybe we're trying to set a standard of one period of time of unpaid leave as aesthetic. What do you think?

Ms. **Schrag**. Well, babies in families are so very different, and I think the thing we have to realize too is that the bill, as it stands before you, to even start compromising any of it away, is just a beginning. I think that's what we would certainly say.

Senator **Dodd**. That's one aspect of the puzzle. It's one piece. There are a lot of other pieces.

Ms. **Schrag**. Yes, but the individual needs are so important. You can have a perfectly normal birth, a kid who is going to end up a Harvard or MIT professor, and he can be a real pain as a baby.

Senator **Dodd**. They usually are. They show indications early on. [Laughter.]

Ms. **Schrag**. You know, sensitive, difficult, crying all the time, and may need a lot of time in investment up front but, you know, with luck, those he'll support his parents when he gets older.

It's really hard to legislate, this is it, this is normal, this isn't. There's such a continuum. There are so many individual needs.

And one of the things to point out too is this business of going back to work gradually may be really key if we can build in that flexibility so it's not a question of 10 weeks home and then, you know, back 40 hours a week, and a two-hour commute every day. The ability to spend some time, as we saw one of the witnesses saying, she'll give up her lunch hour so she can have a little more time while her child is awake. That's a really important position.

Senator **Dodd**. Thank you so much.

Ms. McDonald, it's always a pleasure with the AARP.

Ms. **McDonald**. Oh, thank you. Could I just add one little thing?

Senator **Dodd**. Sure you can.

Ms. **McDonald.** I'm sitting here, listening to all these problems encountered with childbirth and adoption. But these people have probably nine months, and longer in case of adoption, to prepare for this, and they can see the long range that they are going to have to make plans.

When you take an older parent who is a parent, her spouse has a stroke, it comes from right out of the blue. No preparation time. They certainly need some time off from work to make plans for placing that patient.

Senator **Dodd.** Yes, you are absolutely right.

I don't know if any of you have seen or read, anything by Stanley Greenberg, but he is a pollster whom I happen to know very well. He's from Connecticut and, in fact, did work for me in my own political campaigns. He has now become deeply involved in exploring the issue of the family and looking at it as a political issue. Beyond the political issue he is also looking at what people's fears are. He's beginning to show that people's fears about what's happening to the economy are being expressed and related directly through what they feel is happening to their family. There's the notion that if you have raised a family, once the children reach 21, they leave the house. And your own parents, regrettably probably would not be with you much beyond the age of 65, because of their life expectancy.

And what all of a sudden has happened with the change—this fundamental change we're seeing in our economy—is kids can't afford to leave the home, and elderly parents are living a lot longer but have a lot of needs. And so the three-decker house may come back in a sense where you have three generations under one roof. The tremendous fear that the young or middle-aged parents have, and children, is that time they thought was going to be theirs, where they'd be free, all of a sudden they're looking down the road, and they see it may not be free at all. In fact, it may be the most burdensome time of their lives economically and otherwise.

So there's a great deal of fear. I don't know if you've followed or seen any of that, but it's been fascinating. People have expressed it through various groups, what do they call them, these focus groups and so forth, where you explore people's feelings beyond just answering a poll on a specific question.

And I think there's a lot of truth in it, and I wonder if you sense that at all as well?

Ms. **McDonald.** I can well see the abilities of it, sure.

But I just feel that older people need to have their jobs protected just as much as women of childbearing age. Men and women beyond that age certainly have to earn a living, and it's just as hard for them when a medical problem arises. They need the leave.

Senator **Dodd.** No question.

Dr. Delgado, you've been very patient here. I was interested in your comments on being a small business person yourself.

You really did mention morale. I mean it just increases as well and——

Dr. **Delgado.** And I'm going to go back to one I felt like jumping in when you asked in previous testimony about the incidents or about Japan.

My husband is a corporate executive, and I had the pleasure of being a corporate wife in Japan. And going there and to see what they were doing for people. What I picked up is the kinds of things I'm interested in, and what they build is loyalty, loyalty to an organization, and you do that by caring for your staff. And that means more than just giving a check. That means caring for the diversity of things that we have had to deal with as a staff. And in my area of 20 full-time people, we've dealt with everything from pregnancy to miscarriage to AIDS, and caring for an adult.

And so we have had the full gamut and experience of how does an organization deal with it. And you deal with it carefully. And what you do, you have to do something different.

So when I say that the world has changed, yes, the world has changed. But you have to deal with it. You don't try to impose the same things that you had in the past. You have to come up with some new solutions. This bill is one of them.

Senator DODD. Well, I thank you all. You are the most patient panel, as I say. And yes, doctor?

Dr. HARTMANN. Could I add some economic observations about some of the things that have just been said?

Senator DODD. Sure.

Dr. HARTMANN. Well, one is, I think, we do have some evidence that economic stress, such as uncertainty about future employment, would affect the mother-child relationship in those early months after birth.

I also think that there is a great deal of economic evidence that suggests that special needs adoption and special needs children cost the American taxpayer, you know, more than other children, and that if we can do anything to assist with special needs adoption where we know there are so many special needs children waiting to be adopted, that we can do anything with that, I think that would really be important.

I would also like to second what Helen McDonald has said about the cost of illness to workers if they lose their jobs. And if anything, our study shows that those costs that workers bear are greater than those from childbearing just because there are not that many people childbearing at any one time. And that those losses continue, even after the illness year. And it's provisional result that I think it's something that we really want to look at.

I would also say that in face of the GAO testimony, that the overall costs of the bill, including with the provision for ill workers, I think that that really suggests that that provision should not be lost in the inevitable compromise process that will go on with this legislation.

And finally, if I could just comment on the constitutionality of requiring leaves of any kind, as an economist, I think we have become, in the last 20 years or so, more aware of this concept of externalities, that when there are externalities from one person's behavior, it's what an economist would call market failure. And we have a lot of examples of that in which we have had national, not State level, legislation precisely because of market failure.

A good example is national defense. The private market would never provide national defense because if you're going to pay for it, I'm not going to pay for it. That's a market failure.

Another example is natural monopolies. We regulate those monopolies because the market cannot deal with them.

And the third area is that when someone's behavior negatively affects other people, and some examples would be, and this is a business behavior, pollution which I mentioned in the testimony, price fixing which is another one, and even wages and working conditions that are so abysmally low that they cause illness or starvation. We say those are externalities of that individual employer's behavior which we as a society simply must control.

And I think that the Constitution supports our right to control those costs. And what our research shows is that employers who don't provide leave are imposing costs on society. Most of the employers are now providing some kind of leave. The workers who don't have the leave compared to those who do have the leave costs us more as taxpayers and just as a general society.

So I think there is a strong constitutional precedent for your legislation. I urge you to proceed with it.

Senator DODD. I will proceed. And I thank you as well for those additional comments.

Thank you all for being here. If there are any additional questions, of course, we will leave the record open so that the members can raise them or the staff if we are going over testimony and see ones we didn't bring up.

I want to put in a couple of things in the record. There's a Huntington Beach Union High School District School Board that strongly supports this legislation, and that will be included in the record as well. I should put in "Seeking Alternatives to Collective Bargaining," by Jonathan Howe, who was here earlier, in fairness to him. So just talking about the article and not putting it in is not right. So that will be included in the record as well.

[The information referred to and additional material supplied for the record follow:]

Huntington Beach Union High School District
10251 Yorktown Avenue, Huntington Beach, California 92646 (714) 964-3339

Lawrence Kemper, Ed.D.
Superintendent of Schools

Board of Trustees
Bonnie Castrey
President
David Warfield
Vice President
Jerry Sullivan
Clerk
Brian Lake
Linda Moulton

October 27, 1987

Dr. Marsha Renwanz
Subcommittee on Children
639 Hart Senate Office Building
U.S. Senate
Washington, D.C. 20510

Dear Dr. Renwanz:

The Huntington Beach Union High School District wishes to go on record in support of Senate Bill 249 (Dodd). The district has had a maternity leave policy for female employees since 1959. Originally, it was limited to granting a leave for pregnancy and for convalescence following childbirth.

The provisions of the policy have been expanded twice since then. In 1973, provisions were added to allow leaves for both male and female employees for up to a year in case of adoption. The most recent change included maternity disability, thus treating pregnancy similarly to cases of illness or injury.

In the years since the initial adoption of the policy, an average of four employees a year have taken advantage of the provision--less than one percent of the total staff.

It is our opinion that no adverse effects have been felt by the district. We believe that the policy has contributed positively to employee morale.

The district recognizes the importance of this provision in helping families to adjust to their new composition.

We believe the pending bill to be a positive step on behalf of American families.

Sincerely,

Bonnie P. Castrey
Bonnie P. Castrey, President
Board of Trustees

David K. Warfield
David Warfield, Vice President
Board of Trustees

Huntington Beach ☐ Westminster ☐ Marina ☐ Fountain Valley ☐ Edison ☐ Ocean View ☐ Evening High School ☐ Adult School ☐ Guidance Center ☐ Wintersburg ☐ Education Center

COMMENTARY

Seeking Alternatives to Collective Bargaining

By Jonathan T. Howe

During the first half of this century, a policy that collective bargaining had no place in the public sector was nearly universal among local governments in the United States. In the years following World War II, however, public employees have pressured for meaningful participation in determining the conditions of their employment. Teachers and, to a lesser extent, school administrators have participated in this trend.

Today most states have laws that provide for some type of collective bargaining for public employees, including teachers. Indeed, teachers and their professional organizations have been in the forefront of this activity. As a result, collective bargaining is an ongoing process for determining many aspects of school operations related to compensation and working conditions for teachers.

Yet, as we evaluate this experience and consider its potential impact on future public-school operations, we must answer many questions about the effectiveness of collective bargaining. To address these questions, the board of directors of the National School Boards Association, at my request, has approved the creation of an N.S.B.A. Commission on New Communications in Public School Educational Operations.

Collective bargaining is essentially a state matter. Although the N.S.B.A. makes recommendations on issues related to collective bargaining for consideration by state school-boards associations and local school boards, it puts forth no value judgments or critiques on the merits of the process or the resulting outcomes. We believe that this process for conducting employer-employee relations is a policy issue each state must manage independently, in a manner consistent with its own customs and traditions.

This belief should not, however, prevent us from raising and continuing fundamental questions about whether school leaders can develop and use methods other than collective bargaining as a beneficial way to decide issues of instructional quality. The resolution of future issues of quality in public education demands that we address such matters.

Warren G. Bennis has written in his book *The Temporary Society* that the effort to predict social trends "is as absurd as it is necessary." Charged with the responsibility under state laws for the governance of the nation's 15,600 public elementary- and secondary-school districts, local school boards and their 97,000 members across the United States have no choice. They must plan for the future. If they could, they would foresee the future and master it. Since this is not possible, they must try to predict future events, needs, and trends, and then plan for them.

Within this context, the collective-bargaining process, with its inherent adversarial quality, may not be the most effective means of fostering collegial, productive communication between and among teachers, school administrators, and school boards regarding educational and operational issues. Teachers and school administrators, we believe, hold the key to achieving the goals of both instructional excellence and equity in the nation's public schools. Indispensable to the attainment of these two goals is open communication, which characterizes the cooperative and harmonious spirit that pervades every successful professional relationship.

Exactly what role collective bargaining plays in creating that kind of communication remains uncertain. Most states have established formal procedures to channel much of the communication between teachers, school administrators, and school boards. These procedures have been borrowed whole cloth from private-sector employer-employee relations, which involve primarily skilled and unskilled labor, as opposed to certified professionals.

We have no quarrel with any state in its adoption—or its rejection—of private-sector collective-bargaining processes in order to negotiate wages, hours, and conditions of employment in the public schools. As already noted, it is a state's right to determine whether it wants collective bargaining in public education.

Neither do we seek, through our commission's work, the abolition of collective bargaining. Instead, we plan to explore new ways of communicating among school boards, administrators, and teachers, and to evaluate and make recommendations on such new methods.

Recent national studies of the quality of elementary and secondary education have recommended a more meaningful role for the teacher in raising educational standards, devising curricula, and generally influencing school practices. Most of the studies have extolled the role of a strong principal in the development of "effective schools," and many have called for new relationships between teachers and administrators.

While the studies trumpet the necessity for institutionalizing this new relationship, however, none of them address the practical problems of implementing such recommendations. Ignoring collective bargaining as a factor in educational improvement, the studies have failed to suggest ways in which teachers and administrators, working under the policy guidance of school boards, can regularly and more effectively communicate on operational issues.

In its quest for answers to questions posed by these conditions and issues, the N.S.B.A. commission is charged with the following objectives:

- To recommend ways to improve the communications process on public-school operational and educational issues among school boards, administrators, and teachers.
- To determine what kinds of processes can be put into place in a school district—either as a supplement to collective bargaining where it exists or as a separate process where it does not exist—to stimulate cooperation among these professional groups as they address the issues.
- To demonstrate how these recommended processes will ensure that the contributions of the professionals in the districts that institute these methods will yield the most fruitful results possible.
- To show how strict accountability for results can be assured once an improved communication process is in place.
- To describe how these processes can result in placing before the local school boards recommendations, reached with a reasonable professional consensus, that will enable the school board to enact the wisest educational policy under all the unique circumstances in each school district.

While we cannot predict what answers will be forthcoming from this charge and the commission's deliberations, we hope and expect that the recommendations generated will help local boards across the nation determine the kinds of processes that can best move their districts closer to educational excellence and equity.

The school board has the statutory and moral responsibility to be in the vanguard toward the realization of that goal at the local community level. Neither collective bargaining nor any of its nuances should be permitted to impede the educational preparation of our children for the 21st century. ■

Jonathan T. Howe is the president of the National School Boards Association.

WASHINGTON BUREAU
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
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TESTIMONY

OF

ALTHEA T. L. SIMMONS

DIRECTOR, WASHINGTON BUREAU

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

BEFORE THE

SENATE SUBCOMMITTEE ON

CHILDREN, FAMILY, DRUGS & ALCOHOLISM

OF THE

LABOR AND HUMAN RESOURCES COMMITTEE

THURSDAY, OCTOBER 29, 1987

9:30 a.m.
SD-430 Dirksen Building

Mr. Chairman, and members of the Subcommittee on Children, Family, Drugs and Alcoholism, I am Althea T. L. Simmons, Director of the Washington Bureau of the National Association for the Advancement of Colored People. I am appearing on behalf of the NAACP's one-half million members in our 2100 branches in the 50 states and the District of Columbia in support of the Parental and Temporary Medical Leave bill.

The NAACP is of the opinion that this legislation is much needed, it is in the best interests of parents and children, and that it is in the national interest.

The American family over the past decade has undergone dramatic change. Marriages, a traditional family mainstay, are being dissolved at the rate of 1 every 27 seconds - twice the number of a scant decade ago. There is a larger percentage of women in the workforce in 1987 as compared with the number in 1977. American family income has declined in constant dollars after inflation. Persistent inflation and a stagnant economy has left its toll on black families. Almost seventy percent of all poor black families were headed by females in the early 1980's as constrasted to some 56 percent in the 1970's.

The health status of blacks is below parity in most health categories as compared with whites. The mortality rate for black infants is almost twice as high as that for white infants. The environment, economic status, education class, social status as well as heredity has produced significant differentials in the health status of blacks as compared to whites.

Blacks still lag behind whites in educational attainment and the number of elementary and secondary school drop-outs and pushouts far exceeds that of whites. Researchers are divided in their analysis of the significance of the trends, but they conclude that there is a crisis in black families. The NAACP, cognizant of the need to buttress the black family structure convened a summit of national black membership organizations several years ago at historic Fisk University in Nashville, TN to come to grips with what must and can be done to shore up black families. One grim fact was obvious and that was the need for economic security for black families. There are numbers of so-called "latch key" children in our society -- mothers who must enter the workforce or return to it immediately after the birth of a child. This is a matter of economic survival. Yet, it is a crucial period in the life of both the mother and the child to complete the "bonding" process. Many blacks work in low paying jobs without basic economic security so that if and when they take personal leave, they may not have a job to return to.

The Center for the Improvement of Child Caring, in Los Angeles, opined:

> Children are a nation's greatest natural resource. Today's children are tomorrow's adults, parents and leaders. It is in the best interests of a nation to do everything to raise and nurture its children as effectively and humanely as possible.
>
> Parents are the major persons involved in raising children. It is mainly through their efforts and abilities that children are socialized to become productive citizens. When parents possess the resources and skills to rais children effectively and enjoyably, the entire nation benefits. When there are breakdowns, we all suffer. Thus activities and services that enhance the capacities of parents are of great importance to a nation.

It is our understanding that our nation lags behind other countries by its failure to provide a national policy which guarantees parents that they will not lose their jobs if they elect to remain at home temporarily to bond with their child. As the leading nation in the world, this is a condition that cannot be allowed to stand. We must provide the supportive network that is so essential to the well-being of our nation now and in the forseeable future.

Mr. Chairman, and members of the Subcommittee, parenting is a big issue in the blck family. Noted Howard University Sociologist, Dr. Harriett Pipes McAdoo has written:

> Parenting for competence is more difficult for black black parents than for nonblack, often leading to frustration. The black parent must guide the child through conflicting developmental tasks during which the child must inculcate the dominant views of our society and at the same time move to actualize his own potential. This double thrust is conflicting because these very societal views are those that prevent his reaching his potential. The lowered expectations of educational institutions will thwart all but those with the most intense motivation to achieve. Economic discrimination will undermine the functioning of a family unit and inferior medical services will lead to decreased efficiency and early death.
>
> When viewed negatively, as is usually the case, one wonders how some blacks have continued to function. The fact that these families have continued to function despite overwhelming odds, is due to the survival mechanisms that have evolved over generations. The societal preference for the majority group has been operationalized into an environment that has forced family units to rely upon themselves, rather than upon the wider community agencies for the support needed to keep families intact. This reliance upon themselves has developed into coping strategies of four main forms: 1) diversity in family structure; 2) the close interaction and help exchange between domestic units; 3) employment of the wife; and 4) the egalitarian parent relationship.

Mr. Chairman, the passage of this measure would provide the kind of support needed by parents to ensure that we have a health future generation and to make members of the current workforce more productive because part of the anxiety over their children is removed. A large number of our work places still resist any changes to accommodate a growing number of women in the workforce. Family life is imperiled and fear of joblessness is rampart. We force our workers to decide between a job and the family.

A national policy on parental and family leave would help to end the diverse policies now in our nation. It will no longer be left to subjective decision as to when leave is reasonable. The proposed legislation would no pose a burden on the employer, it would benefit, in the long run, the employer and the employee-parent.

The National Association for the Advancement of Colored People urges speedy action by this Subcommittee, the full Committee and the Congress on this much needed legislation.

Thank you for this opportunity to appear and state our position on this worthwhile legislation.

PTA CALIFORNIA CONGRESS OF PARENTS, TEACHERS, AND STUDENTS, INC.

November 5, 1987

Marsha Renwang, Staff
Subcommittee: Children, Family, Drugs, Alcohol
639 Hart Building
Washington, D.C. 20510

Dear Ms. Renwang:

Last March, the California State PTA took a SUPPORT position on AB 368, introduced by Assembly Members Moore, Farr and Roos, January 22, 1987. The bill was to be known as the Parents' Rights Act of 1987, and would have allowed for unpaid leave for child rearing. It passed the Senate and Assembly, but was vetoed by the Governor. (A copy is enclosed.)

The basis for California State PTA's support position of AB 368 was in two State PTA Board of Managers Statements: "Responsibility of Society to the Family" and "Family Planning." Note particularly the second paragraph of the "Family Planning" statement.

At the present time, the State PTA Board of Managers is developing a statement on family issues. When it is adopted, I shall be happy to forward it to you, if you wish.

It is my understanding the California School Boards Association does not have a position on unpaid family and child rearing leave, but it probably goes along with the National School Boards Association. The concerns center around both money and the children's education.

I do hope this will be of help.

Enclosed are copies of the California State PTA's two Statements mentioned above and AB 368.

Sincerely,

Barbara Emerich

Barbara Emerich
ADvocate for Federal Legislation

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PTA CALIFORNIA CONGRESS OF PARENTS, TEACHERS, AND STUDENTS, INC.

Responsibility of Society to the Family

Reaffirmed May 1984

The California State PTA believes that:

- the family is the basic unit of society and recognizes the existence of differing family life styles;
- the responsibility of rearing children and providing for their well-being belongs primarily to the family;
- programs that provide family support services should reinforce the autonomy of the family.

The California State PTA recognizes that:

- the stress of child rearing and a lack of knowledge about child development and the role of the parent can prevent many parents from meeting their children's needs;
- it may be necessary for governmental and private agencies to provide family support services that will reinforce parents' responsibility for their children;
- in some instances, for the welfare of the child and after evaluation and due process, it may become necessary to remove the child from the home environment.

The California State PTA believes that family support services should:

- include parents in the planning and evaluation of programs;
- be varied and flexible, facilitating voluntary participation;
- be available to all families who need them;
- include such programs as services to the child with special needs, family counseling, education for parenthood, parent education, community health services and quality day care;

The California State PTA should encourage:

- support of legislation on the national, state and local levels that will enable communities to provide services that assist families to fulfill their responsibilities to their children;
- cooperation with allied agencies that provide programs to strengthen the family unit.

Family Planning

Revised and Reaffirmed March 1986

The California State PTA believes there should be equal access to family planning guidance and services regardless of the economic or geographic circumstances of any family or individual. PTA further believes persons seeking family planning should be able to receive those services compatible with their beliefs and needs.

In cooperating with community programs for family planning, PTA expresses its concern for maternal and child health and responsible parenthood necessary for the creation of a secure family atmosphere.

AMENDED IN SENATE AUGUST 28, 1987
AMENDED IN SENATE AUGUST 17, 1987
AMENDED IN SENATE JULY 13, 1987
AMENDED IN SENATE JULY 1, 1987
AMENDED IN ASSEMBLY JUNE 15, 1987
AMENDED IN ASSEMBLY APRIL 9, 1987

CALIFORNIA LEGISLATURE—1987–88 REGULAR SESSION

ASSEMBLY BILL No. 368

Introduced by Assembly Members Moore, Agnos, Farr, Roos, and Maxine Waters
(Coauthor: Senator Watson)

January 22, 1987

An act to add Sections 12945.2 and 19702.3 to the Government Code, relating to fair employment and housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 368, as amended, Moore. Fair employment and housing: child rearing leave and discrimination.

Existing law prohibits discrimination in employment on the basis of several enumerated factors.

This bill would make it an unlawful employment practice for any employer who employs ~~15~~ *25* or more employees ~~at the same location~~ to refuse to grant a full-time employee's reasonable request to take an unpaid leave of up to 4 months for child rearing, as defined, except that the employee could utilize any accrued vacation leave or other accrued time off during this period or any other paid or unpaid time off negotiated with the employer.

The bill would allow employees taking child rearing leaves to have the period of the leave treated as time served with the employer for specified purposes.

The bill would provide that the employee would continue to be eligible for health plans, retirement and pension plans, and supplemental unemployment benefit plans during the period of the leave *to the same extent and under the same conditions as apply to an unpaid leave taken for any purpose other than child rearing*, except that an employer may require the employee to pay employee health and welfare benefit plan premiums during the period of leave.

The bill would also make it an unlawful employment practice to refuse to hire, discharge, fine, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to child rearing leave.

(2) An individual's giving information or testimony as to his or her own child rearing leave, or another person's child rearing leave, in any inquiry or proceeding related to rights guaranteed under the bill.

This bill would provide that the above provisions shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1989, whichever occurs first.

The bill would provide that an employer shall not be required to grant to an employee parental leave which would allow the employee and the other parent of the child, if also employed, parental leave totalling more than a specified amount, nor to grant to an employee parental leave for any period of time in which the child's other parent is also taking parental leave from employment.

The bill would also require the Fair Employment and Housing Commission to consider specified factors in adopting regulations concerning child rearing leaves.

Existing law prohibits discrimination against state civil service employees or employee applicants, on the basis of sex, race, religion, creed, color, national origin, ancestry, marital status, or physical handicap.

This bill would additionally prohibit an appointing power from refusing to hire, or from discharging, suspending, expelling, or discriminating against, any individual because of, among other things, an individual's right to child rearing leave.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited as, the Parents' Rights Act of 1987.

SEC. 2. The Legislature finds and declares all of the following:

(a) The United States is the only industrialized country that does not have a mandated policy on child care leave.

(b) There is a shortage of out-of-home child care, particularly for infants.

(c) More than 60 percent of the women of child-bearing age in the United States are in the workforce and 40 percent of these women have children under three years of age.

(d) Because of the changing roles of men and women in the workforce and the family, both men and women should have the option of taking leave for child-rearing purposes.

(e) Close contact between parent and child is in the best interest of the child, particularly during the child's infancy and early years, and this contact promotes family stability.

SEC. 3. Section 12945.2 is added to the Government Code, to read:

12945.2. (a) It shall be an unlawful employment practice for any employer of ~~15 or more employees at the same location~~ *25 or more employees* to refuse to grant a request by any employee *with more than one year of continuous service with the employer and who is* eligible for other benefits to take a leave of up to four months for child rearing. Child rearing leave requested pursuant to this subdivision shall not be deemed to have been granted unless the employer provides the employee, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave. The commission shall adopt a regulation specifying the elements of a reasonable request. For purposes of this section, "child rearing" means the rearing of any minor dependent child of the employee, or a child for whom the employee is the legal guardian. For purposes of this section, "child rearing leave" includes, but is not limited to, leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption of the child by the employee, or the illness of a child of the employee which is likely to require continuing medical treatment or confinement for at least a month.

(b) An employer shall not be required to pay an employee for any leave taken pursuant to subdivision (a), except as required by subdivision (c).

(c) An employee taking a leave permitted by subdivision (a) shall be permitted to utilize any accrued vacation leave or other accrued time off during this period or any other paid or unpaid time off negotiated with the employer.

(d) Any employee taking leave pursuant to subdivision (a) shall continue to be entitled to participate in health plans, pension and retirement plans, and supplemental unemployment benefit plans ~~. In the case of health and welfare employee benefit plans, including group medical, life, or accident insurance plans, the employer may~~ *to the same extent and under the same conditions as apply to an unpaid leave taken for any purpose other than child rearing. In the absence of these conditions, an employee shall continue to be entitled to participate in these plans, and in the case of health and welfare employee benefit plans, including group medical, life, or accident insurance plans, the employer may, at his or her discretion,* require the employee to pay premiums, at the group rate, during the period of leave not covered by any accrued vacation leave, or other accrued time off, or any other paid or unpaid time off negotiated with the employer, as a condition of continued coverage during the leave period. However, the nonpayment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. ~~An~~

For purposes of pension and retirement plans, an employer shall not be required to make plan payments for an employee during the leave period, and the leave period shall not be required to be counted for purposes of time accrued under the plan. However, an employee covered by a pension plan may continue to make contributions in accordance with the terms of the plan during the period of the leave.

(e) During a child rearing leave period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. An employee returning from leave shall return with no less seniority than the employee had when the leave commenced, for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits such as vacation.

(f) It shall be an unlawful employment practice for an employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to child rearing leave provided by subdivision (a).

(2) An individual's giving information or testimony as to his or her own child rearing leave, or another person's child rearing leave, in any inquiry or proceeding related to rights guaranteed under this section.

(g) This section shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1989, whichever occurs first.

(h) The provisions of this section shall be construed as separate and distinct from those of Section 12945. However, leave taken pursuant to this section shall be no more than one month when used in conjunction with the maximum leave under Section 12945, unless the employer and employee agree otherwise.

(i) This section shall not entitle the employee to receive disability benefits under Part 1 (commencing with Section 3201) of Division 4 of the Labor Code.

(j) Leave provided for pursuant to this section shall not be taken more than once in a 24-month period unless otherwise agreed to by the employee and the employer.

(k) An employer shall not be required to grant to an employee parental leave which would allow the employee and the other parent of the child, if also employed, parental leave totaling more than the amount specified in subdivision (a), nor to grant to an employee parental leave for any period of time in which the child's other parent is also taking parental leave from employment.

SEC. 4. Section 19702.3 is added to the Government Code to read:

19702.3. (a) An appointing authority shall not refuse to hire, and shall not discharge, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to child rearing leave provided by subdivision (a) of Section 12945.2.

(2) An individual's giving information or testimony as to his or her own child rearing leave, or another person's child rearing leave, in any inquiry or proceeding related to rights guaranteed under Section 12945.2.

(b) This section shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1989, whichever occurs first.

(c) An appointing authority's obligation to provide benefits, other than for birth or adoption of a child, for costs incurred by the state shall be contingent upon provision in the annual Budget Act.

SEC. 5. In adopting the regulations required by subdivision (a) of Section 12945.2 of the Government Code, as contained in Section 3 of this act, the Fair

Employment and Housing Commission shall consider and specify all of the following:

(a) The length of time necessary for appropriate advance notice for a leave request submitted pursuant to subdivision (a) of Section 12945.2 of the Government Code.

(b) The appropriate minimum duration of child rearing leave. This paragraph shall not be construed as permitting an employer to deny a reasonable child rearing leave request for a period in excess of the appropriate minimum duration for child rearing leaves.

(c) What would constitute ~~business necessity~~ *undue hardship* for denial or deferral of child rearing leave.

(d) What accommodation of the employee's parenting rights short of granting a leave would be reasonable.

SEC. 6. It is the intent of the Legislature that this act shall not affect any rights of state employees under Section 19991.6 of the Government Code or Section 89519 of the Education Code.

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HUNTSVILLE CITY SCHOOLS
MARY JANE CAYLOR, Ed D, SUPERINTENDENT
P. O. BOX 1256 TELEPHONE (205) 532-4600
HUNTSVILLE, ALABAMA 35807-4801

November 4, 1987

Bellamy Award

Centennial

TO: Senator Edward M. Kennedy, Chairman
Committee on Labor & Human Resources and
Senator Christopher J. Dodd, Chairman
Subcommittee on Children, Families, Drugs & Alcoholism

FROM: Mary Jane Caylor
Mary Jane Caylor
Superintendent of Schools

RE: Response of the Huntsville, Alabama, City Schools to the Testimony of Benny Snodgrass

We believe that this subcommittee would not want to base legislation upon evidence which is factually incorrect. For that reason, we wish to submit certain facts in response to the testimony of Benny Snodgrass, a former employee of Huntsville City Schools.

First, Mr. Snodgrass, contrary to his testimony, was not a teacher in the Huntsville City Schools. In fact, he was a non-certified teacher's aide. Second, Mr. Snodgrass was not fired. He resigned (See Attachment A). In fact, we could not have simply fired him, in any event. In Alabama, non-certified employees who have served three years attain permanent status (See Attachment B). Once this status is attained, such employees cannot be terminated without a full due process hearing before an independent panel. In Mr. Snodgrass' case, Huntsville City Schools did not initiate the process to terminate his employment.

Third, Huntsville City Schools has policies providing ample leave, both with pay and without pay (See Attachments C, D, E, F, G & H). As of January, 1987, Mr. Snodgrass had 13.7 hours of paid leave accrued. He used almost all of it prior to the discovery of his daughter's illness. Even after discovery of her illness, he had some paid leave available. When that was consumed, he could have requested leave without pay, but he did not. He was never denied leave for any purpose in the Spring or Summer of 1987. He did not need leave during the Summer. As a nine month employee, his services ended on June 5 for the 1986-87 school year (See Attachments I & J).

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Benny Snodgrass

He was, in fact, entitled to hospitalization insurance for his daughter, paid by the state or the local board. If he did not take it, that was his decision.

Attached please find a copy of the statement of his principal regarding repeated attempts to assist him (See Attachment K).

As you can see, much of Mr. Snodgrass' testimony can be demonstrated to be inaccurate. If you want verification of the facts in this response, our files are, of course, subject to subpoena.

Finally, we wish to emphasize our concern with the way this matter has been handled. Had we not been contacted by the press, we would not have known of Mr. Snodgrass' testimony (See Attachments L & M). We would have preferred that the subcommittee had given us an opportunity to respond prior to the publication of such blatant inaccuracies.

cc: Senator Howell Heflin.

ILGWU

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LEGISLATIVE DIRECTOR

December 7, 1987

The Honorable Christopher J. Dodd,
Chairman
Subcommittee on Children, Families, Drugs
and Alcoholism
U. S. Senate
Washington, DC 20510

Dear Senator Dodd:

The International Ladies' Garment Workers' Union strongly supports S. 249, The Parental and Medical Leave Act of 1987 and commends you for your leadership on this legislation to establish a national minimum leave standard for all working families in this country. The ILGWU views S. 249 as an important step in developing a rational family policy in the United States.

The legislation would establish a minimum labor standard for parents -- mothers and fathers -- to accommodate more easily their work and family responsibilities without fear of losing their jobs. Specifically, S. 249 would require that any company employing 15 or more people to grant an employee up to 18 weeks of unpaid job-guaranteed leave for the care of a newborn, newly-adopted or seriously-ill child and up to 26 weeks of unpaid job-guaranteed medical leave when a parent cannot work because of serious illness.

The ILGWU, 85% of whose members are low or moderate income women workers, is proud of its long history of innovative and successful collective bargaining agreements to expand working families' benefits and job protections.

Recently, the ILGWU negotiated a new contract with major New York City undergarment associations to provide six-months of unpaid leave for a parent. These contracts, directly or indirectly, cover about 20,000 employees in the industry, which is composed mainly of small businesses. This agreement is significant because our industry, as you know, is seriously threatened by the flood of textile and apparel imports from countries where wage, hour and child

AFL-CIO CLC

labor protections do not exist. These five New York City associations employ anywhere from three to three hundred workers in their shops. The employers understood the need for an unpaid parental leave benefit and did not view it as an economic burden adversely affecting the industry's competitive status.

For many years, the ILGWU has advocated an employer policy that would treat maternity leave like any other disability, with leave time and job reinstatement rights guaranteed. It was a natural evolution for the ILGWU from maternity leave to parental leave.

Over the past twenty years, the structure of American family life and the role of women in the work force have changed dramatically. Almost half of all new mothers now work outside the home; 67% of women with children under age three years-old are in the work force.

Not only has American business been slow to adapt to these changes but a segment of the business community actively opposes any change in its own practices despite evidence of the need for new work and family programs. According to a 1986 national survey of Fortune 500 companies and their maternity/parental leave policies, only 51% of companies responding offered some job-protected unpaid leave for women, often three months or less. Only 37% of the companies provided an unpaid job-guaranteed leave for men. And 63% of the companies did not consider it appropriate for men to take any kind of parental leave.

Employers opposed to S. 249 argue that the costs of complying with this new program would be prohibitive. The fact is that the leave time provided for in S. 249 is unpaid; that many employers provide limited or no employee health benefits; and that most workers must, out of economic necessity, return to their jobs as soon as possible. The ILGWU does not believe it can be seriously argued that S. 249 will bankrupt American industry.

Furthermore, the recent report of the General Accounting Office indicates in its independent estimate that the cost to business nationally if the family and medical leave benefit were available to employees would not exceed $500 million annually.

page 3
Senator Dodd
December 7, 1987

It is time for the United States to move ahead with a responsive national family policy so that workers are not forced to choose between their economic security and the basic welfare of their families.

The ILGWU is committed to working with you and your committee to get behind this effort to pass S. 249, The Parental and Medical Leave Act of 1987 in the Senate.

Respectfully,

Evelyn Dubrow

Evelyn Dubrow
Vice President and
Legislative Director

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November 12, 1987

Honorable Christopher J. Dodd, Chairman
Subcommittee on Children, Family, Drugs
and Alcoholism
Committee on Labor and Human Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In connection with your Subcommittee's October 29, 1987 hearings on parental leave legislation, I am writing to share with you and the other members of your Subcommittee the policy of the American Bar Association on this subject.

The ABA supports the establishment of a reasonable federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full or part-time basis to provide child care for newborn infants, newly adopted children, and seriously ill children. We believe that the requirement to provide such leave should apply only to organizations which have more than a reasonable threshold number of employees and that the requirement should include the continuation of existing health benefits during such periods of leave.

One can read the newspapers almost anywhere in this country and find daily accounts of children who have suffered from inadequate parenting. The adoption of legislation such as that proposed by the ABA acknowledges the importance of parenting to the emotional well-being of America's children, and enables working parents to properly care for their children during critical times. This issue is of such importance that any inconvenience which employers may experience as a result of providing parental leave is outweighed by the very important benefits which society will derive.

Enclosed is a copy of the resolution adopted by our House of Delegates on this subject in August 1987 and its accompanying explanatory report. While the report does not constitute Association policy, it contains background material which we hope will be helpful to your Subcommittee.

Honorable Christopher J. Dodd
Page 2
November 12, 1987

We ask that this letter and the enclosed resolution and report be made part of the record of the October 29th hearings.

Sincerely,

Robert D Evans

Robert D. Evans

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6203A

Enclosures

cc: Members of the Subcommittee on Children, Family, Drugs and Alcoholism

AMERICAN BAR ASSOCIATION
YOUNG LAWYERS DIVISION

REPORT TO THE HOUSE OF DELEGATES
ADOPTED AUGUST 1987

RECOMMENDATION

BE IT RESOLVED, That the American Bar Association supports the establishment of a reasonable Federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full or part-time basis to provide child care for newborn infants, newly-adopted children, and seriously ill children.

BE IT FURTHER RESOLVED, That such requirement only apply to organizations which have more than a reasonable threshold number of employees.

BE IT FURTHER RESOLVED, That such federal requirement include the continuation of existing health benefits during such periods of leave.

REPORT

I. Background

The family environment in which American children are raised has changed dramatically during the course of the past few decades as more and more mothers have joined the work force. Today, the family in which both husband and wife are working is the rule rather than the exception: 48.8% of all married women and 61.3% of all married women with children are in the labor force.[1] Another drastic change is the emergence of the single-parent family as a major element of our society: 19% of children live in female headed, single-parent households either as a result of divorce or being born to un-wed mothers[2], and 67.6% of these single-parent mothers work.[3] Further, the long held view that most new mothers leave the work force to stay at home with their children is no longer true: 67% of married women with children under the age of three and 50% of all mothers with children under the age of one were in the labor force in 1985.[4] The typical American family, as portrayed in television series of the 1950's and 1960's such as "Ozzie & Harriet" and "Leave It to Beaver," has clearly changed.

These changes have taken their toll on the American family. The absence of parents in the home, especially during critical periods such as infancy[5], serious illness and recent adoptions[6], decreases the quality of parenting and the bond between parents and children. Although we cannot turn back the clock, it is imperative for the future of our children and perhaps for our society that temporary parental leave policies be established which facilitate parenting in time of need.

II. Current Law in the United States

There currently exists no federal law which provides for job-protected parental leave to provide care for infants, newly-adopted children, and seriously ill children. Many parents, male and female, are therefore forced to make alternative arrangements for the care of infants or seriously ill children because neither can afford to risk termination from their employment.[7]

Several bills have been introduced in Congress during the past year concerning the subject of family and medical leave. The propose recommendation is significantly narrower than these bills in that it does not seeks approval of mandatory job-protected disability leave for all employees. Rather, it focuses on the need for job-protected parental leave.

Twenty-six states have some form of legislative activity in the area of family and medical leave. Minnesota and Connectivutt have recently passed parental leave legislation. Minnesota's statute, scheduled to go in effect August 1, 1987, will require employers with at least 21 employees to provide 6 weeks of unpaid parental leave to employees for the birth or adoption of children. Effective July 1, 1988, Connecticut will provide state employees 24 weeks of unpaid leave for the birth or adoption of children, care of seriously ill children, or for their own recoveries from serious illnesses.

IV. The Proposed Recommendation

This recommendation has been carefully drafted to avoid sex discrimination issues and strike a proper balance between the needs of society and the concerns of employers.

This recommendation is sex-neutral as it specifically applies to both male and female parents. It is based on both the recognized importance of proper parental care to the emotional well-being of children as well as importance of children to the American family and society.

It is also very important to note that the proposed recommendation does not address the concept of paid parental leave, but rather merely endorses the concept of job-protected parental leave with the continuation of whatever health benefits were already being provided by the employer. Further, the proposed recommendation would only apply to those organizations which have more than a certain number of employees. It thus seeks to facilitate parenting while recognizing the sometimes disruptive effect that such leave has on day-to-day operations, especially in small firms, as well as the costs attendant upon filling positions with temporary help.

Some corporations and employers feel that this area is of no concern to the government and that it is impractical for employers to hold jobs open for individuals who are out on temporary leave for any reason. While the proponents fully recognize the difficulties created by job-protected temporary leave, these difficulties must be balanced against the concern for America's children, many of whom are unable to receive the same type of love, care and attention during the formative years that their parents and grandparents enjoyed. As noted by the New York Times in an editorial in January, 1986, "surely the needs of working parents and their children merit national concern. A legislative effort that helps to promote family stability deserves the most serious consideration."[8]

Further, there is proof that the alleged hardship on employers has been exaggerated by those who oppose such legislation as is supported by this recommendation. A recent survey found that in addition to 95% of Fortune 1500 companies offering short-term disability leave to employees, fully 51.8% of the Fortune 1500 companies offer women job-protected parental leave while 37% offered such leave to fathers.[9] These companies and many smaller ones have found that such policies are practical and often have a positive effect on employees.[10]

IV. Summary

One can read the paper almost anywhere in the country and find almost daily accounts of children who have suffered from inadequate parenting. While the adoption of legislation such as proposed by this recommendation goes to only one aspect of the problem, it recognizes the importance of parenting, especially at critical times, to the emotional well-being of America's children. This issue is of such importance that the inconvenience it will place on employers is out-weighed by the benefits to society. It is time for the United States to join the rest of the industrialized world in recognizing the overriding importance of this issue and adopt the necessary legislation.

Respectfully submitted,

Alan S. Kopit
Chairperson

Footnotes:

1. Bureau of Labor Statistics, Half of Mothers with Children Under Three Now in Labor Force (August 20, 1986).

2. *Id*.

3. Bureau of Labor Statistics, unpublished data (1986).

4. Staff of Representative Patricia Schroeder, *Parental and Medical Leave, H.R. 4300, Briefing Paper*, 99th Cong., 2nd Sess. 3, July 17, 1986.

5. S. Kamerman, A. Kahn, P. Kingston, Maternity Policy and Working Women, 12-14 (1983).

6. D. Smith & L. Sherwen, Mothers and Their Adoptive Children: The Bonding Process (1983).

7. H.R. Rep. No. 699, 99th Cong., 2nd Sess., 16 (1986).

8. New York Times, January 1, 1986.

9. H.R. Rep. No. 699, *supra* at 19.

10. See e.g., *Id*. at 19-20.

Senator Dodd. And this concludes our hearings on this. We've had—as I said, I checked, had some fun checking. The Bork hearings had 112 witnesses, we had 134 on parental leave. I don't know what that means. I hope we are not subjected to the same fate. If the number of witnesses is proportional to the success you're going to have, this has not been a great idea to have this many. [Laughter.]

But I do want to thank, first of all, Marsha Renwanz who is sitting and has been sitting right behind me or next to me through all of this, and is my Staff Director on the Subcommittee. She has just done an incredible job with all of this. I think people assume, the press must, even possibly witnesses, these things just happen. You just kind of throw them together. They don't. It is hours and hours and hours and hours of work to make them successful. And we get good witnesses who are honest witnesses, who are representative witnesses. I think I've always been concerned about bringing up horror stories that really aren't representative. You don't accomplish anything with that at all.

So we have tried to have the families who have come forward be reflective of the types of problems people face, not the rare, rare exception at all. And Marsha has done a tremendous job in four major cities around the country and several of the hearings here in Washington. So I am deeply grateful to her. She has done a tremendous job on this bill already, and we've got a long way to go, but the hearing process is going to give us, I think, a substantial weapon, if you will, as we march forward in trying to build up some support.

On the Subcommittee staff is Jean Powell and Ruth Gardner, who have done a terrific job, Angela Manuel as well who has worked for the Subcommittee staff. On Senator Thurmond's staff, Kirk Spong has been terrific. I don't know where he is, he may have left, but Kirk has done a great job.

Senator Hatch, Chris Iverson, who has been very good, and with Senator DeConcini, Tim Gearan. So we've been lucky to have some good people working with us.

With that, this Subcommittee will stand adjourned, until further call of the Chair.

[Whereupon, at 1:55 p.m., the Subcommittee adjourned, subject to the call of the Chair.]